

**BIDEN'S GROWING BORDER CRISIS: DEATH,
DRUGS, AND DISORDER ON THE NORTHERN
BORDER**

HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT, INVESTIGATIONS,
AND ACCOUNTABILITY
OF THE
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BIDEN'S GROWING BORDER CRISIS: DEATH, DRUGS, AND DISORDER ON THE NORTHERN BORDER

Tuesday, March 28, 2023

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS,
AND ACCOUNTABILITY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:47 a.m., at Room 310, Cannon House Office Building, Hon. Dan Bishop [Chairman of the subcommittee] presiding.

Present: Representatives Bishop, Green, Ezell, Strong, Crane, Stefanik, Ivey, Thanedar, Ramirez, Clarke, Correa, and Jackson Lee.

Chairman BISHOP. The Committee on Homeland Security Subcommittee on Oversight, Investigations, and Accountability will come to order. Welcome, everyone, to this subcommittee's first hearing titled, "Biden's Growing Border Crisis: Death, Drugs, and Disorder on the Northern Border". I am honored to be Chairman of the subcommittee and to be joined by our Vice Chairman Mike Ezell, our colleagues, distinguished guests, and experts. I also congratulate Ranking Member Ivey on his new role. This subcommittee is excited to get to work. I want to also thank Sang Yi and staff for the careful preparation for this hearing.

Today's hearing will examine the expansion of the Biden administration's border crisis to our very critical Northern Border. I ask unanimous consent—is the gentlelady from New York attending? I ask unanimous consent that the gentlewoman from New York, Ms. Stefanik, is permitted to sit with the subcommittee and ask questions of the witnesses.

Without objection, so ordered.

I now recognize Ranking Member Ivey for the purpose of seeking unanimous consent.

Mr. IVEY. Thank you, Mr. Chairman and good morning. Mr. Chair, I ask unanimous consent that Ms. Jackson Lee and Mr. Correa be permitted to sit with the subcommittee and question today's witnesses.

Chairman BISHOP. Without objection, so ordered.

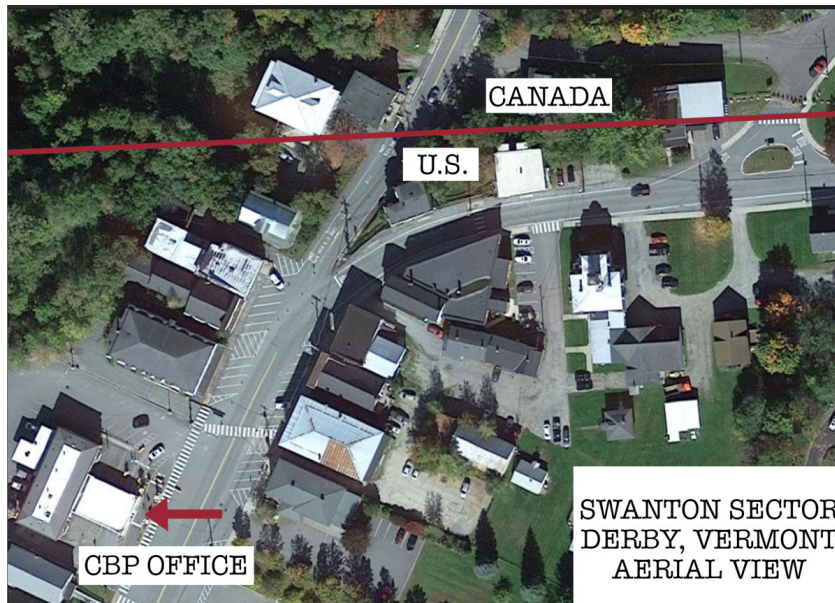
I will now make my opening statement. The subject matter of this hearing is testament to the fact that the damage from poor decisions tends to compound in unexpected ways. While the historic crisis at our Southwest Border warrants primary focus, the disas-

trous consequences of the Biden-Mayorkas open border policy have spread to our once-secure Northern Border as well. While the Northern Border has terraneous areas, other areas, unlike the Southern Border, offer suburban and easy access for illegal migrant crossings.

If we could, on the monitor, I would like to show a couple of pictures of the border at Derby, Vermont. This is within the Swanton sector. Can you go back to that first picture again? Yes. So, if you see the potted plants, that is actually the U.S.-Canadian border in that location. Then the second picture that you see, I don't know if you can make it out, but this is what would correspond to high security. They put some wooden sawhorses along with the potted plants. So, it is not exactly, as you would say, a fortified border. That last photo was the picture that—leave it there for a moment—that same traffic circle is in the upper right-hand area of the picture. Then down below to the lower left, you can see where the arrow indicates the Customs and Border Patrol offices. They don't even have a direct line of sight to that area of the border.

[The information follows:]





Chairman BISHOP. So, it happens that the influx of illegal aliens has multiplied rapidly in that area, it is overwhelming Customs and Border Protection, local law enforcement, and local communities. The Biden administration's failed policies embolden criminal organizations to exploit the Northern Border, smuggling people, including children, drugs, and weapons, over the Northern Border. Sadly, since just March 10, the Swanton Sector alone, that touches

on New Hampshire, Vermont, and New York's Northern Borders, has seen 28 children, all under the age of 14, crossing the Northern Border in extremely cold and snowy conditions. Just last week, authorities busted 17 illegal aliens from Nicaragua and Guatemala in one stash house in Lisbon, Maine. Two of them were previously removed from the country and 4 previously crossed the Southern Border.

Meanwhile, due to the crisis at the Southwest Border, Secretary Mayorkas surged resources away from other areas critical to homeland security, including the Northern Border. There are now fewer than 2,000 Border Patrol agents to cover the 3,145-mile land border, more than twice the size of the Southwest Border in terms of geography. In 2022, Secretary Mayorkas sent over 20 percent of the Northern Border work force to help at the Southwest Border. Some remaining agents were tasked with remotely processing aliens in Texas. Now, the administration is doing an about-face recently detailing 25 additional officers to the overwhelmed Northern Border. Customs and Border Patrol morale is suffering. Agents work long hours in extreme conditions and are exposed to death, crime, and suffering.

The Northern Border is experiencing a huge increase in illegal migrant encounters. In the Swanton Sector alone, that same one I just mentioned, there has been over an 800 percent increase since the last fiscal year. So, while the numbers are not as large in absolute terms, the growth is astonishing. Smugglers take advantage of aliens, leaving them in treacherous conditions. Just last year, an Indian family of 4, including 2 young children, were left to freeze to death at the Northern Border after being abandoned by a smuggler.

The influx of illegal aliens also leaves the United States susceptible to terrorism and crime. In the last 6 months, Border Patrol apprehended an illegal alien listed in the Terrorist Screening Dataset between Northern Border ports of entry. At ports of entry, 176 individuals in the dataset have been apprehended this fiscal year at the Northern Border. That figure compares to just 38 at the Southern Border. I say just, that is probably the wrong term to use. Thirty-eight in that Terrorist Screening Dataset at the Southern Border, but 176 individuals at ports of entry on that list from on the north on the Northern Border.

The Biden administration admits that transnational criminal organizations take advantage of the Northern Border terrain to traffic drugs, weapons, and illicit proceeds over the border. The current crisis is giving those organizations the green light. Enough fentanyl came over the Northern Border in fiscal year 2022 and 2023 to kill 3.4 million Americans. Federal officials estimate that they are only seizing 5 to 10 percent of all drugs smuggled across the Southwest Border. With far less manpower in the north, over a much larger border, including much of these very rough terraneous areas, it is daunting to imagine what narcotics are coming over the Northern Border that we do not specifically know about.

Every State is a border State, and local communities, especially on the Northern Border, are struggling to keep up. Local police departments along the Northern Border lack the resources and equipment to effectively patrol their jurisdictions, especially without the

help of CBP agents who were sent to the Southern Border. Local businesses cannot accommodate the groups of aliens that congregate in their lobbies looking for shelter and rides to their final destinations. These communities need reprieve.

President Biden's open border policies and Secretary Mayorkas' refusal to enforce our Nation's laws have jeopardized national security at the U.S.-Canada border and the operational readiness of Border Patrol agents. Just 2 weeks ago in front of us in McAllen, Texas, which some of our fellow folks on the other side of the aisle had been present, but the chief of the U.S. Border Patrol acknowledged in his testimony that we do not have operational control of the Southern Border, that the Southern Border in many places is not secure, and that it is the consequence of Biden administration policies that both those conditions obtain. Well, same problem in different ways is manifesting itself at the Northern Border. We will hold President Biden and Secretary Mayorkas accountable for this metastasizing crisis.

I welcome our Members and appreciate the important work we will do together. I also welcome and thank our guests for joining. Thank you all.

[The statement of Chairman Bishop follows:]

STATEMENT OF CHAIRMAN DAN BISHOP

The subject matter of this hearing is a testament to the fact that the damage of poor decisions tends to compound in unexpected ways.

While the historic crisis at our Southwest Border warrants primary focus, the disastrous consequences of the Biden-Mayorkas open border policies have spread to our once-secure Northern Border as well.

While the Northern Border has terraneous areas, other areas, unlike the Southern Border, offer suburban and easy access for illegal migrant crossings.

The influx of illegal aliens has multiplied rapidly in that area. It's overwhelming Customs and Border Protection, local law enforcement, and local communities.

The Biden administration's failed policies embolden criminal organizations to exploit the Northern Border, smuggling people, including children, drugs, and weapons over the Northern Border.

Sadly, since just March 10, the Swanton Sector alone, that touches on New Hampshire, Vermont, and New York's Northern Border, has seen 28 children all under age 14 crossing the Northern Border in extremely cold and snowy conditions.

Just last week, authorities busted 17 illegal aliens from Nicaragua and Guatemala in one stash house in Lisbon, Maine. Two of them were previously removed from the country and four previously crossed the Southern Border.

Meanwhile, due to the crisis at the Southwest Border, Secretary Mayorkas surged resources away from other areas critical to homeland security—including the Northern Border.

There are now fewer than 2,000 Border Patrol agents to cover the 3,145-mile land border, more than twice the size of the Southwest Border in terms of geography.

In 2022, Secretary Mayorkas sent over 20 percent of the Northern Border workforce to help at the Southwest Border. Some remaining agents were tasked with remotely processing aliens in Texas.

Now, the administration is doing an about-face, recently detailing 25 additional officers to the overwhelmed Northern Border.

Customs and Border Protection morale is suffering—agents work long hours in extreme conditions and are exposed to death, crime, and suffering.

The Northern Border is experiencing a huge increase in illegal migrant encounters. In the Swanton sector alone, that same one I just mentioned, there has been over an 800 percent increase since the last fiscal year. While the numbers are not as large in absolute terms, the growth is astonishing.

Smugglers take advantage of aliens, leaving them in treacherous conditions. Just last year, an Indian family of four, including two young children, were left to freeze to death at the Northern Border after being abandoned by a smuggler.

The influx of illegal aliens also leaves the United States susceptible to terrorism and crime. In the last 6 months, Border Patrol apprehended an illegal alien listed

in the Terrorist Screening Data Set between Northern Border ports of entry. At ports of entry, 176 individuals in the data set have been apprehended this fiscal year at the Northern Border. That figure compares to 38 at the Southern Border.

The Biden administration admits that transnational criminal organizations take advantage of the Northern Border terrain to traffic drugs, weapons, and illicit proceeds over the border.

The current crisis is giving those organizations the green light. Enough fentanyl came over the Northern Border in fiscal year 2022 and fiscal year 2023 to kill 3.4 million Americans.

Federal officials estimate that they are only seizing 5 to 10 percent of all drugs smuggled across the Southwest Border. With far less manpower in the north, over a much larger border, including much of these areas of rough, terraneous areas, it's daunting to imagine what narcotics are coming over the Northern Border that we do not specifically know about.

Every State is a border State, and local communities, especially on the Northern Border are struggling to keep up.

Local police departments along the Northern Border lack the resources and equipment to effectively patrol their jurisdictions, especially without the help of the CBP agents who were sent to the Southern Border.

Local businesses cannot accommodate the groups of aliens that congregate in their lobbies, looking for shelter and rides to their final destinations. These communities need reprieve.

President Biden's open border policies and Secretary Mayorkas' refusal to enforce our Nation's laws has jeopardized national security at the U.S.-Canada border and the operational readiness of Border Patrol agents.

Just 2 weeks ago, in front of us in McAllen, Texas, if some of our folks on the other side of the aisle had been present, the chief of the U.S. Border Patrol acknowledged in his testimony that we do not have operational control of the Southern Border and in many places it's not secure. And that it is the consequence of Biden administration policies. Well, the same problem in different ways is manifesting itself at the Northern Border.

We will hold President Biden and Secretary Mayorkas accountable for this metastasizing crisis.

Chairman BISHOP. I now recognize the Ranking Member, the gentleman from Maryland, Mr. Ivey, for his opening statement.

Mr. IVEY. Thank you, Mr. Chairman, and good morning. First, I would like to take a moment at the beginning of this hearing to express my deepest condolences to those affected by the devastating tornado that impacted Ranking Member Thompson's Mississippi district this past weekend. Second, I would certainly be remiss if I did not also acknowledge yet another tragic act of gun violence in our schools that left 6 dead in Nashville, 3 schoolchildren and 3 teachers. I think the contrast of the natural disasters and mass shootings that we are facing as a Nation is pretty sharp with respect to the issue that is being brought forward before this hearing, this committee today, this manufactured Northern Border crisis.

The facts do not support the Republican claim that the Northern Border is, "a source of death, drugs, and disorder." In fact, with respect to the Northern Border crisis, I think by contrast, if I could have, or quote one of our fellow colleagues here on the committee has said, I am not worried about the Northern Border. He is not alone in that statement. There are other Members who have made similar statements on, well, from the Republican side of the aisle also on this committee who stated that before.

But let me say this if we are going to be here and discuss this today, and clearly we are, I want to make sure that everybody understands that this is not a problem that began under the Biden administration. In 2019, the GAO highlighted the Trump administration's decision to focus on the Southwest Border, which led to a significant staffing and resource challenge at the Northern Border.

In fact, the Trump administration compounded that problem then that same year by terminating a contract with an outside contractor. I believe it was Accenture, but I will see that subject to check. But before they were able to actually expedite the much-needed staffing increases, the Trump administration terminated that contract for convenience.

As a result, CBP's numbers of apprehensions between ports of entry hit a high watermark in fiscal year 2019 under the President Trump, with 4,408 apprehensions compared to the 2,856 encounters the Border Patrol had in fiscal year 2023.

Can we have the second exhibit as well? I think this chart shows, with the red being 2019, the number from the year I just was discussing, the high watermark being in the Trump administration. Fiscal year 2022 has gone up from fiscal year 2021, but it is still short of the numbers we experienced in 2019, or 2018 for that matter.

I want to be clear about this as well. I know there's a lot of issues about the statistical discussions, and we will have more chance to discuss those at length. I think we will have witnesses who are going to give detailed comments and explanations. But I want to make sure we are on the same page with respect to our definitions of encounters, and apprehensions, and arrests. I will come back to that in a moment.

But with respect to the major point of this hearing, I would assume is that if we are going to fix the problem, we have to commit resources to doing that. As I said at a previous hearing in this committee, this is the Show Me the Money moment. One way of measuring whether people are serious about addressing a problem is by looking at the budgets and the efforts they make to commit money to fix the problems.

In December, Democrats passed the Omnibus Appropriations bill. As I discussed in our previous hearing back in February, to help DHS manage the border, the bill added 300 additional Border Patrol agents, 125 more CBP officers, and related personnel, and more than \$400 million for nonintrusive inspections systems to interdict drugs. The nonintrusive inspections are important because Canada is our, I believe, No. 2 trading partner. So, we don't want to delay the intercourse between the two countries with excessive and extensive inspections. We want to make sure that the products between the United States and Canada can flow quickly and efficiently.

In addition to that, though, the bill also authorized a new \$800 million Shelter and Services Grant program to improve CBP's operational capabilities, and to help manage the border by reducing overcrowding in facilities. Only two Republicans currently serving in the entire House of Representatives voted for that bill, and neither of them serve on this committee. Not only have Republicans voted against this funding, they failed to put forward a workable plan or mark up any viable legislation that could actually fix this so-called crisis at the Northern Border.

I hope the witnesses will discuss H.R. 9023, which is Member Tenney's bill, and I believe Congressman Stauber is a cosponsor of that bill. But I do want to point out right now, so they will have a chance to respond, that this bill only speaks to even if we assume

that the transfer of money from the IRS were to actually happen, under the actual provisions of this bill, the money could only go to the Southern Border. So, in a possible reflection of their view of the importance of the Northern Border, it isn't even addressed in that legislation.

Instead of relying on the Republicans, we have had to count on the Democrats to address these problems. That continues to this day with President Biden's new budget proposal, which would fund even more major investments in both the technology and facilities at the Northern Border. For example, the President's proposed budget would provide \$66 million for the construction of a new Border Patrol facility in Maine, as well as devoting \$38 million for surveillance towers on both the Northern and Southern Borders. In addition, the President's budget request includes \$600 million for work force pay raises and proposes the hiring of 350 more Border Patrol agents, 150 field operations officers, 175 Border Patrol processing coordinators, 244 Border Patrol mission support staff, and 46 field operations mission and operations staff. The Republicans had offered no specifics, only rhetoric.

I will leave it to my colleagues and the witnesses to discuss our trading relationship with Canada. As I mentioned, it is clearly a critical relationship for the United States economy and there is nothing going on with respect to Canada that merits them being treated like some kind of rogue state. As a matter of fact, the Biden-Trudeau meeting, I think, from last week is an indication that they are a good working partner with the United States and that we have been able in the past and will continue to be able in the future to work through problems in a way that is joint and effective.

Last, I want to mention that on a separate note, about a month ago, I sent a letter to the committee expressing my thoughts about additional, or another type of investigation that we should be pursuing. With respect to the DHS OIG, there have been allegations that surfaced in the last Congress and two chairmen at the time sent letters to the IG demanding documents on two fronts. One was with respect to allegations of sexual harassment going on inside that office and demanding documents in response to address that.

The second was the failure of the OIG to produce, or inform Congress until 14 months later that text messages with respect to January 6 had been apparently deleted. That issue, I thought, merited a hearing, especially since given this committee's jurisdiction of oversight, it is sort-of right down the middle of the alley for where we should be looking as opposed to a border issue when we have got a subcommittee that is focused on borders.

I would renew my request to have a hearing on those issues with respect to the OIG's conduct. I think it is critical for us to get to the bottom of it. The IG role in all of these departments, as we know from the Watergate era, is critical in making sure that they function appropriately, and we need to make sure that they are able to perform that mission and are focused on doing it correctly in a thorough, objective, and transparent way.

Thank you, Mr. Chairman, for giving me a chance to offer my opening statement. With that, I yield back.

[The statement of Ranking Member Ivey follows:]

STATEMENT OF RANKING MEMBER GLENN IVEY

MARCH 28, 2023

I would like to take a moment at the beginning of this hearing to express my deepest condolences to those affected by the devastating tornado that impacted Ranking Member Thompson's Mississippi district this past weekend. I would also like to acknowledge the tragic act of targeted violence that left 6 dead in Nashville yesterday, including 3 children.

These devastating incidents, over which the Department of Homeland Security has broad authority to address, puts into perspective the frivolity of holding a hearing on the manufactured Northern Border crisis. My Republican colleagues seem intent on using cherry-picked statistics, misleading statements, and inflammatory rhetoric to sell a story that the facts don't back up. So, let me be clear about what the facts do show.

Republicans probably won't tell you that the number of times that U.S. Border Patrol has encountered migrants between ports of entry on the Northern Border peaked in fiscal year 2019, during the Trump administration, and has not reached that level since. It is true that the total number of times that Customs and Border Protection (CBP) has encountered someone at ports of entry and between ports of entry has recently increased. But encounters on the Northern Border are a mere 5 percent of total encounters. This is hardly a reason to paint the Northern Border as a source of "death, drugs, and disorder."

As long-time allies and trading partners, Canadian officials have worked closely with our own Government to monitor and respond to changes in global migration patterns, while facilitating the legitimate trade and travel that serves as an economic lynchpin for both our countries. Canada is our country's largest trading partner, with nearly \$2.6 billion in goods and services crossing our shared border every day and contributing to thousands of jobs in both countries. Canadian companies operating in the United States directly employ over 630,000 Americans. And numerous industries benefit from trade agreements between the United States and Canada, from steel and aluminum manufacturers to auto parts, and most recently the two countries established an agreement to strengthen the cross-border semiconductor manufacturing corridor.

Following the lifting of pandemic restrictions, CBP has worked closely with their Canadian partners to dramatically reduce the backlog of individuals requesting pre-screening for expedited travel across the Northern border. And just last week, President Biden met with Canadian Prime Minister Trudeau to announce a new agreement on how to treat migrants crossing the border in both directions.

Canadian officials also announced a plan to welcome an additional 15,000 migrants on a humanitarian basis from countries in Central American and the Caribbean. The Canadian government plans to accept over 460,000 new permanent residents this year. As we know, increasing legal pathways for migration reduces the numbers of people who seek to enter illegally.

President Biden's visit last week also marked the announcement of a new global coalition to counter synthetic drugs, such as fentanyl. Canada and the United States will lead a concentrated effort to expand prosecution of drug traffickers, dismantle criminal networks, prevent the trafficking of drugs across our shared border, and disrupt the supply of precursor chemicals. While there are unique challenges on the Northern Border, the U.S.-Canadian partnership is strong and prepared to take these challenges head-on.

So instead of making a mountain out of the molehill that is, in reality, a small increase in activity on the Northern Border, I'd ask that we focus on the issues that really matter. We can sit here and argue about statistics and play with numbers and percentages all day. But let's not forget that we're talking about real people with real lives that matter, and their trials and tribulations should not be boiled down to a misleading statistic used to score political points. As we look to our Northern Border and how we might best solve the challenges we see there, it's important to remember that modest challenges can be managed effectively with our Canadian partners.

Chairman BISHOP. Thank you, Mr. Ivey. That letter you sent was on March 20, that is 8 days ago, not a month ago, but we certainly will take it up in due course.

So, other Members of the committee are reminded that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

MARCH 28, 2023

We are here today to discuss our shared border with Canada and how we are working with our neighbors to effectively manage the more than 5,000 miles of border that connect us geographically, economically, and culturally. Unfortunately, Republicans are trying to create a misimpression of chaos on the Northern Border. They are manipulating data and conveniently leaving out certain details to weave a politically-motivated story about an unmanageable surge of migrants and drugs—and blaming the Biden administration for long-standing border staffing shortages. However, the reality is far different.

When discussing increased “encounters” on the Northern Border, Republicans use percentages to exaggerate small numbers. They also compare current levels of border encounters with encounters during the worst of the COVID-19 pandemic, when the border was effectively closed, creating a distorted view of the current situation. Republicans point to increases in drug seizures from fiscal year 2021 to 2022. They don’t mention that so far this fiscal year, only 1 pound of fentanyl has been seized or that U.S. and Canadian officials continue to work closely to prevent drug smuggling across the border.

Republicans say that Border Patrol staffing remains static, but they fail to mention the 300 additional agents Democrats funded this year or that every Republican on this committee voted against providing that money.

Republicans will pay lip service to putting boots on the ground, but their votes show they aren’t backing up that talk with action.

Where there are issues on the Northern Border, they are manageable because of our strong security partnership with Canada. Just last week during President Biden’s visit to Ottawa, he and Prime Minister Trudeau finalized new agreements to address irregular migration along the Northern Border. The Safe Third Country Agreement was revised to allow both countries to return migrants who cross between ports of entry to the other side. Canada also agreed to welcome 15,000 migrants from the Western Hemisphere this year, providing them with a path to safety, stability, and opportunity.

These new agreements demonstrate our strong commitment to securing our shared border.

That commitment certainly extends to personnel on the ground, with U.S. Customs and Border Protection, Coast Guard, and State and local police working with their Canadian counterparts every day to keep the border secure and facilitate trade and travel. As challenges continue to arise, which they are bound to do given the vast border we share, I am confident our shared security commitment will serve us well.

Chairman BISHOP. I am pleased to have two distinguished panels of witnesses before us today on this very important topic. I will now introduce our first panel of witnesses, which is a Member panel. Questions by Members on the dais will be reserved for the witnesses on the second panel after those witnesses’ opening statements.

Representative Claudia Tenney represents the 24th District of New York and is a member of the Northern Border Security Caucus. Representative Mike Kelly represents the 16th District of Pennsylvania and is co-chair of the Northern Border Security Caucus. Representative Brian Higgins represents the 26th District of New York and is co-chair of the Northern Border Caucus. Representative Pete Stauber represents the 8th District of the great State of Minnesota and is a member of the Northern Border Security Caucus as well. I thank these Members and witnesses for being here today. I will now recognize Representative Tenney for 5 minutes for her opening statement.

**STATEMENT OF HON. CLAUDIA TENNEY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK**

Ms. TENNEY. Thank you, Chairman Bishop, and Ranking Member Ivey, and Members of the Oversight, Investigations, and Accountability Subcommittee for the opportunity to appear before you all today and testify on the crisis at our Northern Border. While a lot of attention, rightfully so, has been paid to our Southern Border, our Northern Border is also facing a crisis. The U.S.-Canada border is the longest international border between two countries in the world. I may just address the Ranking Member for a moment. This manufactured crisis that he describes, maybe we could discuss why President Biden recently went to Canada to visit with Prime Minister Trudeau to discuss the problems at the border. So, apparently, President Biden has recognized that this is an issue as well.

Recent news reports, along with data compiled over the last 2 years, show a surge in illegal migrant crossings and drug trafficking across the Northern Border. Specifically, in the north country sector of the border, which I partially represent, there has been nearly an 850 percent increase in border crossings, while the stats the Ranking Member shows do not count this past year.

As the national security threat at our Northern Border continues to grow exponentially, there has been no corresponding increase in U.S. Border Patrol staffing. It is still at the same level as it was fiscal year 2009. I am honored to represent New York's 24th Congressional District, which runs along the Northern Border with Canada across Lake Ontario and the St. Lawrence River. This crisis is directly harming my constituents, as drugs and illegal aliens are trafficked along the border.

Under President Biden's failed leadership, our borders are less secure and our communities are at risk. It is critical now more than ever for Members of Congress to come together with one voice to advocate against President Biden and Secretary of Homeland Security Mayorkas' reckless policies. It is time for the administration to finally focus on delivering the resources needed for our hard-working and courageous Border Patrol agents at the Northern Border to do their jobs effectively.

Since President Biden has taken office, there has been nearly a 15-fold increase in northern land border encounters. There were 997 Northern Border land encounters in January 2021 before President Biden took office. It is 15-fold since that date. But since then, we continue to see these crossings with no action on the part of the administration. In the month of October 2022, there were 15,938 northern land border encounters. In fiscal year 2020, there were 32,376 border encounters. In fiscal year 2022, there were 109,535 encounters. Under the Biden administration, drug smuggling has increased by 596 percent along the Northern Border, including a 26 percent increase in fentanyl.

Border Patrol staffing has remained flat, as I said, since 2009. Since fiscal year 2009, staffing levels along the Northern Border sectors have been between 1,887 and 2,263 personnel. Fiscal 2020 Northern Border staffing was at 2,019, actually less. The longest international border in the world measuring 5,525 miles, the U.S. Northern Border has only 115 ports of entry, with no performance measures to assess security between ports.

This shortcoming is especially impactful to my district, which shares a considerable border with Canada across Lake Ontario. Numerous traffickers utilize this large expanse of water to bypass more heavily-guarded sections of the border, funneling drugs into our communities. Others use the heavy boat traffic on the St. Lawrence in the summer to overwhelm and evade the border security there.

Just a few weeks ago, I had the opportunity to meet with our Buffalo Border Patrol agents, and they discussed the many issues they are facing. However, by far the biggest challenge these public servants face is the lack of resources and assistance to effectively do their jobs. For example, under Secretary Mayorkas, each border sector must individually apply to receive permission to perform counter-Unmanned Aerial Systems operations. It took Secretary Mayorkas roughly 3 weeks to approve the Buffalo Sector's ability to perform to counter these CUAS operations. During this time, drug smugglers continued to use UAS to traffic fentanyl and other drugs across the border that directly harms our communities. Once again, I appreciate the opportunity to testify in front of the committee. I am glad to see the Northern Border crisis finally getting the attention it needs. May I ask the Ranking Member we are happy to amend my bill to include the Northern Border and I hope you will join us in those efforts. I do implore the committee to please join with our border agents at the Northern Border to really understand what is happening up there. It is really a crisis and it is tragic on a human level as well. Thanks so much. I appreciate the ability to testify.

[The prepared statement of Hon. Tenney follows:]

STATEMENT OF HONORABLE CLAUDIA TENNEY

MARCH 24, 2023

Thank you, Chairman Green, Ranking Member Payne, Members of the Oversight, Investigations, and Accountability Subcommittee, for the opportunity to appear before you all today and testify on the crisis on our Northern Border.

While a lot of attention, rightfully so, has been paid to our Southern Border, our Northern Border is also facing a crisis. The U.S.-Canada border is the longest international border between two countries in the world. Recent news reports, along with data compiled over the past 2 years, show a surge in illegal migrant crossings and drug trafficking across the Northern Border. Specifically, in the North Country sector of the border, which I partially represent, there has been an 846 percent increase in illegal border crossings. As the national security threat at our Northern Border continues to grow exponentially, there has been no corresponding increase in U.S. Border Patrol staffing, which is still at the same level as it was in fiscal year 2009.

I am honored to represent New York's 24th Congressional District, which runs along our Northern Border with Canada across Lake Ontario and the St. Lawrence River. This crisis is directly harming my constituents, as drugs and illegal aliens are trafficked along the border.

Under President Biden's failed leadership, our borders are less secure and our communities are at risk. It is critical now more than ever for Members of Congress to come together with one voice to advocate against President Biden and Secretary of Homeland Security Alejandro Mayorkas' reckless policies and to focus on delivering the resources needed for our brave Border Patrol agents at our Northern Border to do their jobs effectively.

Since President Biden has taken office there has been an almost 15 times increase in Northern land border encounters. There were only 997 Northern land border encounters in January 2021. But that number has increased each month since. In the month of October 2022, there were 15,938 Northern land border encounters. In fiscal year 2020, there were 32,376 border encounters. In fiscal year 2022, there were

109,535 encounters. Under the Biden administration, drug smuggling has increased by 596 percent along the Northern Border, including a 26 percent increase in fentanyl.

Border Patrol staffing has remained flat since fiscal year 2009. Since fiscal year 2009, staffing levels along the Northern Border sectors have been between 1,887 and 2,263 personnel. Fiscal year 2020 Northern Border sector staffing was 2,019. The longest international border in the world, measuring 5,525 miles, the U.S. Northern border has only 115 ports of entry with no performance measures to assess security between ports. This is especially important in my district, which shares a considerable border with Canada across Lake Ontario. Numerous traffickers utilize this large expanse of water to bypass more heavily-guarded sections of the border, funneling drugs into our communities.

Just a few weeks ago I had the opportunity to meet with our Buffalo Border Patrol agents, and they discussed the many issues they are facing. However, by far, the biggest challenge these public servants face is the lack of resources and assistance to effectively do their jobs. For example, under Secretary Mayorkas, each border sector must individually apply and receive permission to perform counter-Unmanned Aerial Systems (C-UAS) operations. It took Secretary Mayorkas roughly 3 weeks to approve the Buffalo Border Sector to perform C-UAS operations. During this time, drug smugglers continued to use UAS to traffic fentanyl and other drugs across the border that directly harms our communities.

Once again, I appreciate the opportunity to testify in front of the committee and I am glad to see the Northern Border crisis finally getting the attention it deserves.

Chairman BISHOP. Thank you, Representative Tenney. I now recognize Representative Mike Kelly for 5 minutes for his opening statement.

**STATEMENT OF HON. MIKE KELLY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. KELLY. Thank you, Chairman, Vice Chairman, thank you for allowing us to be here today. You know, look, I think it is time for us to quit playing Who Struck John and talk about the problem we face. It is getting down to there is no secrets in our family. There are just a lot of things we don't talk about. Four-and-a-half million illegals have crossed into this country since the Biden administration went into effect. There is no way you can play with that. You can't twist it. You can't turn it. You can't make it a different color. The problem we have is we have nobody guarding our borders the way we are supposed to.

The Northern Border is wide open. You heard what Ms. Tenney said, 5,500 miles or 1,000 miles, right? That is a long, that is 5,500 miles, that border. There is no way we can cover it. Then when you take and you will listen to the Border Patrol people when they come in, you take those folks from the Northern Border and take them down to the Southwestern Border because they are doing the intake. You are looking at 40 percent of our Border Patrol down on the border in Southwest and understand that 40 percent of those are working on the intake place.

So, you come down today, so, what is the problem? Now, Chairman, you have very clearly stated what is taking place. The numbers are incredible. They are off the charts. Ms. Tenney repeated a lot of what it is that you just said. Now, we can sit here and point fingers as no, it was the other administration. It is not this administration. I will challenge anybody to go the Southwestern Border and see who put up a fence. One is a really tall fence that you look and say, my God, there is nobody who can go over that. The other one looks like the outfield fence of the Little League.

Now, we can keep saying it wasn't us that did it. It was the other party that did it. The truth of the matter is we have serious problems at our border. Four-and-a-half million illegal entries into our country. If they were wearing the uniform of a foreign country, we would think we were being invaded and we would be very say, my God, who is watching the border? The answer is the Border Patrol. But they are so strung out, they are so purposely sent one place to another. This administration, by its failure to admit that we have a problem, is the problem.

Now, Ranking Member, I appreciate what you went through at the beginning, but again, it always comes down to no, no, not us, them. Now, you talk about pieces of legislation that control and have some information, but it gets blurred into what the total site of the legislation is. I would just say this and please——

Mr. IVEY. Will the gentleman yield for a question?

Mr. KELLY. No, no, no. No, I won't. I won't yield right now. I will not yield. It has taken us too long to get here. We had to form the Northern Border caucus in order to get some attention because it was being totally, it was just being ignored.

When you hear what the Border Patrol goes through, then you can hear what those men and women on the border do. When I got to Erie and talked to those men years before when I stopped by to see them, everything was fine. This year you could see it on their face. They are drained. They are drained because they feel they have no help coming from this administration.

Now, whether we like it or not, the truth of the matter is look at the game films. You can't alter them. Four-and-a-half million illegal entries into this country. That doesn't count the people that came through the right way. Just to think for that 4½ million people if their first action upon entering the United States was to break one of her laws, that is not somebody I want to have in my community and say I am glad you are here, come on in. If we do not address this crisis at the Northern Borders, if we do not look at that border that is totally unprotected, there is just not enough men up there to do it. They are just worn out.

Now there are ways to I guess to address that, but a lot of that area is totally unpopulated. We don't know who is coming in or who is going out, but we do know the number of deaths. Those deaths from fentanyl are the ones that you look at and say, my God, this is somebody's son or daughter. This is somebody who we would love to have in our community. Because of this infestation, it is corrupting us. It is ruining us. It is causing us to fight them against—between each other, as opposed to saying look, we got a problem at our borders. If we don't recognize that as Americans. Forget about the red team and the blue team. Think about what it is that we are supposed to do. The office that we are in right now, we take an oath to protect this country and for us to say no, this is going to be a political battle. This is not political for me. This is about policy. Nobody can tell me that this administration has addressed this when you completely ignored her—ignore a crisis at our Southwestern Border and don't even mention the Northern Border. Forget about the thing with Trudeau over the weekend. That was a joke. That's not serious.

So, I would just ask all Members of Congress to please stop looking at what side of the aisle you are sitting on and start looking about what is taking place in our country right now. Four-and-a-half million illegals since this administration went into office. Now, please don't tell me there is not a problem, and don't tell me it is being addressed, because the reality of it is not being addressed. It is being ignored by the President, the Vice President. They have turned a blind eye and a deaf ear to our borders. So, listen, we can football this back and forth, but the reality of it is America is suffering because of the inattentiveness and inactions taken by this administration. Thank you. I yield back.

[The prepared statement of Hon. Kelly follows:]

STATEMENT OF HONORABLE MIKE KELLY

MARCH 24, 2023

Chairman Bishop and Ranking Member Ivey: Thank you both for inviting myself and our fellow colleagues to join you all on this critical hearing to discuss America's Northern Border. I would also like to thank Congresswoman Stefanik, Congressman Stauber, and Congressman Higgins for their service and testimony today. Northern Border security is an issue that has been ignored for far too long. I am so pleased to see the committee giving our northern communities, Northern Border agents, and northern Members a voice in protecting all regions of our homeland.

I have had the distinct pleasure of representing Pennsylvania's Northwest communities in the U.S. House for the last 12 years. I have made it my mission to actively engage with all different sectors of our area: Companies, schools, families, and hardworking Pennsylvanians. Among those hardworking Americans are our incredible Customs and Border Protection agents. We are blessed to have these brave men and women of the CBP Buffalo Sector patrolling the waters of Lake Erie, including the 40+ miles that I represent in Pennsylvania.

Throughout my 12 years serving the district, I have met with these agents to discuss their needs, priorities, and day-to-day operations out of their sector and station. Typically, our meetings are upbeat and swift. Reports are standard and the agents are optimistic. Last year, I once again visited the Erie station to chat with agents. This time was different. Agents had serious concerns. They were seeing a spike in drug and gun smuggling along their patrol area. At the same time, agents were forced to be inside at a desk doing digital processing work to assist with the influx of migrants in the south. Overall morale for these men and women was clearly low. This change in tone led to me and my team digging into what exactly was going on along the Northern Border.

Meanwhile down south, over the last 2 years, we have witnessed tragedies at our Southern Border. Southern States have been overwhelmed with record illegal immigration, drug smuggling, and crime that has continuously poured into the local communities. The Biden administration has sat back and watched these great States bear the brunt of disastrous and dangerous policies. Under the current administration, there seems to be no end in sight. Understandably, all the attention has been on the Southern Border. At the same time, as we found out, America's Northern Border has been ignored all while quietly facing its own crises.

According to Customs and Border Protection (CBP) data, in fiscal year 2022, U.S. Border Patrol agents had 2,238 encounters at the Northern Border. Now, in just the first 4 months of fiscal year 2023, encounters have skyrocketed to 2,856 and surpassed the total of last year's encounters. Agents continue to put themselves in harm's way to keep our communities safe, and this 475 percent increase in encounters from the first 4 months of fiscal year 2022 is both unsustainable and symptomatic of this administration's broader failure to secure the border. As temperatures reach sub-zero levels and USBP agents conduct life-saving search-and-rescue missions, Secretary Mayorkas continues to insist that he is managing the border in a safe, orderly, and humane manner. However, our Northern Border is on track to see nearly 7,000 encounters in fiscal year 2023, while the administration continues to downplay the threat posed by a wide-open Northern Border.

Specifically, the Swanton sector apprehended more undocumented immigrants in the previous 4 months than the last 2 fiscal years combined. In December 2022, a record 441 migrants from 19 different countries were apprehended attempting to cross into the United States through this sector. Further west, tragic stories, like

an Indian family of four freezing to death as they attempted to cross into North Dakota, highlight the dangers DHS leaders have created for migrants and the brave men and women of USBP.

In addition to increases in illegal immigration, the Northern Border has seen a spike in drug smuggling. Excluding marijuana, drug smuggling seizure weight increased by nearly 600 percent along the Northern Border from fiscal year 2021 to fiscal year 2022. More specifically, khat increased 1,756 percent, ecstasy increased 1,736 percent, ketamine increased 663 percent, and methamphetamine increased 204 percent. Even more concerning, CBP seized 14 pounds of fentanyl in fiscal year 2022 along the Northern Border; enough to kill an estimated 3.17 million people. The damage this lethal drug can do to a community has been well-documented over the years, notably across New England States. We cannot allow another avenue for fentanyl smuggling into our communities that are already inundated by the drug crisis down south.

As record levels of border encounters and drug smuggling continue to rise, USBP staffing on the Northern Border has remained relatively static. In between the 138 ports of entry in our northern States, only 2,019 USBP agents have been assigned to protect and monitor the 5,525 border miles. Along with being under-staffed, our Northern Border agents and DHS does not even have situational awareness of the crises. In a 2019 analysis, the U.S. Government Accountability Office (GAO) stated DHS does not even have performance measures to assess security along the Northern Border. GAO concluded, "While CBP has performance measures . . . some of which include data from the Northern Border, it does not have specific measures to assess its effectiveness at securing the Northern Border between ports of entry."

Not only do our States in the north face an ever-growing border concern, but we have first-hand knowledge and real-life experience of the broken immigration system. The Biden administration spent much of the last 2 years covertly dropping groups of migrants into communities across the country. This hit home when Health and Human Services shipped 144 unaccompanied migrant children to an emergency intake site in Erie, Pennsylvania. There was no notification or alert given to local leaders, the people of Erie, and myself. For months, we tried to get information regarding the situation—why was the Erie site chosen, what was the amount of taxpayer money spent, and where were these children taken following Erie? It took 17 months to get an answer from HHS and Secretary Becerra. Time after time, it has become clear to me that this administration is fine with security issues along our border and within our country as long as the headlines do not follow.

Once we understood the increasing issues along our Northern Border, we knew attention had to be brought to the problems. I circled up with fellow Northern Border Members, such as Rep. Stefanik and Rep. Ryan Zinke. I thought I would be introducing them to these issues, but they were more than aware, bringing along stories of migrants freezing to death in the cold New York winters and deputized poses patrolling the Montana mountainside to combat drug traffickers.

We all agreed the Biden administration had to be held accountable for their neglect to our Northern Border and that is why we introduced the Northern Border Security Caucus. The caucus is a coalition of 29 Members of Congress who share the vision of securing all of America's borders and ensuring that the 13 border States and 5 Great Lakes in the north are receiving the attention and resources they deserve. Through the work of our new caucus, and that of House Republicans at large, we plan to show the Biden administration that our broken immigration system isn't simply a talking point: it's a critical issue that affects our entire country.

By calling attention to the Northern Border, we do not want to minimize the record illegal immigration, drug smuggling, and crime that have ravaged communities along the U.S.-Mexico border. Instead, we are amplifying that message. More must be done to secure all of our borders; to protect our communities from deadly drugs; and to give leaders from northern States a greater voice in solving our Nation's troubled immigration system.

Although we serve on House committees that address policies other than immigration, like so many in Congress, this issue found us. Members of Congress from both the north and the south have practical solutions to the joint border crises at hand. We plan to give a greater voice to the American people who, until now, have been left out of the conversation. I once again thank the committee for welcoming myself and my fellow colleagues to testify on the issues facing America's Northern Border.

Chairman BISHOP. Thank you, Representative Kelly. I now recognize Representative Higgins for 5 minutes for his opening statement.

**STATEMENT OF HON. BRIAN HIGGINS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEW YORK**

Mr. HIGGINS. Thank you, Chairman Bishop, and Ranking Member Ivey, for allowing me to testify today. I served on this committee for three terms, and it is good to be back. My name is Brian Higgins and I represent Buffalo, Niagara Falls, and Western New York in the House. It is good that you are having this hearing on the Northern Border. I would argue that Canada is not a hostile neighbor to the United States. We share a history that is strong. In fact, on 9/11, when the airspace in the United States was shut down, 37 passenger planes landed in Gander, Newfoundland, a town in Canada of about 7,000 people. There were about 7,000 people on those planes. They were treated as friends. They were treated as neighbors, and they were helpful to each other.

I grew up on the Northern Border. I spent most of my summers in the Canadian shores of Lake Erie, in the cottage communities of Bay Beach, Crystal Beach, Thunder Bay. I played ice hockey up in Canada. We are in close proximity to the Province of Ontario. The Province of Ontario is 15 million people. It is 38 percent of the entire country of Canada.

The Canadian economy is a little less than \$2 trillion. They value worker rights. They value human rights. They value environmental rights. The American economy is about \$23.5 trillion. We value the same things. My Western New York economy is deeply integrated economically with southern Ontario. Our life qualities are integrated.

We need to have a border, which has been said is 5,500 miles long with 120 land ports of entry, that is safe and secure. But we cannot characterize our Northern Border and our northern neighbors as hostile. You know, if you look at places throughout the world, in the Middle East, in Eastern Europe, and the Indo-Pacific, it is surrounded by hostility and instability. We, in North America, are surrounded by fish and friends. I think that we need to recognize that relationship. I think we need to celebrate it, yes, with good border protection, as my colleagues have said.

We need to treat our Customs and Border Protection agents as the professionals that they are. We need to make sure that they are properly supported and that they are properly compensated for the work that they do. As my colleague from Pennsylvania, Mr. Kelly, has said, it is unacceptable. It is unacceptable that people who are hired on the Northern Border, who live in close proximity to it, are forced to go to the Southern Border. It is not good policy. It is not good practical sense because a lot of those people end up quitting. So, we lose those resources altogether.

So, I would ask that this committee recognize the shared prosperity, the shared security that is so important to the United States and Canada without compromising the strong friendship that has existed between our two countries. We need each other. We have all kinds of examples of that in Buffalo and Western New York. Thirty percent of the people that use the Buffalo Niagara International Airport originate from Canada. We have two professional sports franchises, the NFL Buffalo Bills, the NHL Buffalo Sabres. Twenty percent of the ticket-buying base, the fan base, is in southern Ontario. Canadians spend \$15 million a year in health

care in Buffalo and Western New York. It is a shared existence. We are mutually benefit from that relationship. My hope is that this committee will recognize that the immigration issue is being solved, as evidenced by the President and the Prime Minister coming up with an agreement about better management. Those diplomatic engagements need to continue to ensure that there is safety and security at the border. But let's not compromise our relationship with our northern neighbors who have been good neighbors, who are contributors, net contributors to our economy, and our life quality. With that, I will yield back. Thank you, sir.

[The prepared statement of Hon. Higgins follows:]

STATEMENT OF HONORABLE BRIAN HIGGINS

Thank you, Chair Bishop, and Ranking Member Ivey, for allowing me to testify. I served on this committee for 3 terms. It is good to be back.

My name is Brian Higgins and I represent Buffalo, Niagara Falls, and Western New York in the House. It is good that you are having a hearing on the Northern Border today.

The United States and Canada have a unique and special relationship. We enjoy a shared border and shared values. I am a lifelong resident of Buffalo, New York. I have lived at the Northern Border my entire life.

My district is economically integrated with Southern Ontario. Buffalo is home to the Buffalo Bills football team and the Buffalo Sabres hockey team. Our community could not sustain them without Canadian season ticket holders. Nearly 4,000 United Auto Workers work at General Motors and Ford plants in Western New York. These plants—which help make combustion engine and electric vehicles—are in the stream of commerce with plants in Ontario.

The Buffalo airport has attracted low-cost airlines like JetBlue and Southwest because of proximity to the rapidly-growing Toronto market. Western New Yorkers travel to Ikea in Ontario to furnish their homes. Canadian cars fill the parking lots at the Walden Galleria Mall in Cheektowaga, New York many weekends. Americans have owned cottages along Lake Erie in Bay Beach, Crystal Beach, and Sherckston for generations. Canadians ski at Ellicottville, New York. This productivity and life quality is possible because our Customs agents work every day to enforce and uphold our laws.

My district includes 4 land ports of entry and 1 rail crossing. They operate under treaties between the United States and Canada. At the bridges, our officers enforce our laws with great success.

Customs and Border Protection last year seized 60,000 pounds of drugs at our Northern Border, 98 percent of which were at our ports of entry. Our country asks a lot of these professionals. They did not sign up to be public health managers during the pandemic, but they have been forced to interpret confusing and inconsistent travel rules. And they are stretched too thin.

I oppose efforts to expand temporary duty travel. These assignments take officers away from their families and community for extended periods of time. I support the agreement that President Biden and Prime Minister Trudeau announced last week to address irregular migration. This collaboration shows we can work through challenges.

A lot more must be done. I have long publicly argued that our Federal Government does too little to support Northern Border communities. There should be a dedicated Northern Border infrastructure fund to pay for improvements to land ports of entry. By failing to invest, we have lost out on economic activity. There should be greater support for Sector Buffalo Coast Guard stations, something I have been advocating for since 2005 and is proceeding much too slowly.

Congress must also ensure that working conditions for border agents are optimal. This means funding an 8.6 percent cost of living increase in pay this year. We can also alleviate the strain of this work by increasing the number of officers, building on support from last year. It means funding for training—like expediting construction of a training facility in the Town of Lockport, New York and for resources to cope with mental health challenges. My community also needs more access to Preclearance programs.

I urge you to push the Department to work with Canada to end the NEXUS backlogs that have piled up due to bureaucracy. You should also support my legislation to allow for more remote interviews—bringing trusted traveler programs into the

21st century. And we need your help pushing for PreClearance at Niagara Falls train station and other settings.

I hope that this hearing can discuss these many challenges and think about practical solutions. In the last census, the population of the city of Buffalo increased for the first time in many decades. That increase was credited to the settlement of thousands of asylum seekers. Fleeing instability in far-away places, they have settled in Buffalo to make a new life. They are the latest generation to do so. I am the descendant of Irish immigrants whose predicament was not unlike these newcomers. I would say that many in this room may have a similar story in their histories as well.

As you conduct this hearing today, I hope we can all remember that shared humanity. Thank you.

Chairman BISHOP. Thank you, Representative Higgins. I move to agree with you that—and say for the record, that the relationship with our neighbor in Canada is an entirely important one and they are friends, not anything other than that. Both countries benefit from an orderly and secure border, of course. I think your testimony illustrates that.

If you take the example that you mentioned of the agreement entered into last week between the President and Prime Minister Trudeau, though, it was an example of a Safe Third Country Agreement. Canada can return migrants who are passing through the United States into Canada, they get to return them. Their exchange for that was they would accept 15,000. Frankly, if you consider our numbers, 15,000 migrants from the Western Hemisphere, it is a rounding error. The kind of Safe Third Agreement that will now benefit Canada, obviously, they don't think the United States is a hostile enemy either. We are friends. But they believe they see the value in that. Those Safe Third Agreements that the United States had with countries to our south have been allowed to lapse and abandoned by this administration. What Canada is pursuing, we should pursue on behalf of the United States. So, with that I recognize—thank you, Representative Higgins. I now recognize Representative Stauber for 5 minutes for his opening statement.

Mr. IVEY. Mr. Chairman, would you yield so I could have a chance to ask that one?

Chairman BISHOP. You will have a chance a little bit when you have question time, sir. But at this moment, I will recognize Representative Stauber for 5 minutes.

Mr. IVEY. I would only ask that we be able to have equal time as we go forward, Mr. Chairman.

Chairman BISHOP. Representative Stauber, you are recognized.

STATEMENT OF HON. PETE STAUBER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. STAUBER. Thank you, very much, Mr. Chairman. Mr. Higgins, I appreciate you mentioned the Buffalo Sabres because my younger brother was a goaltender there for a few years, and my brother, Rob Stauber, he played with Los Angeles and Buffalo. So, I appreciate you mentioned professional hockey.

Chairman Bishop, Ranking Member Ivey, and Members of the committee, I would like to thank you for convening this very important hearing as well as for allowing me the opportunity to testify today on behalf of the people of Northern Minnesota. I am proud to represent Minnesota's 8th Congressional District, which contains a large portion of Minnesota's nearly 550-mile-long border with

Canada, including important crossings like the Northwest Angle, Grand Portage, and International Falls. Throughout the 8th District, cross-border traffic, commerce, recreation, and tourism play an incredibly important role. However, rather than benefiting the lives of my constituents, the proximity to our unsecured Northern Border with Canada is increasingly becoming a liability as the effects of the Biden administration's disastrous immigration and border security policies become a part of my constituents' everyday lives. As this administration fails to properly address our growing crisis at our Southern Border, the consequences are echoing throughout communities across the United States, particularly in our Northern Border communities.

As I visit with hardworking—excuse me—as I visit with hardworking Custom and Border Patrol Protection agents in my district, I hear their concerns about staffing levels and the lack of focus to the north. According to agency data, CBP staffing levels along our Northern Border have remained stagnant over the past decade, even as threats have increased.

Agents in my district are being pulled away from their patrols, either being dispatched to patrol our Southern Border, or being relegated to sit in their offices to process paperwork related to illegal crossings at the Southern Border. On average, there is now only one officer on duty for every 275 miles of the border in my district. Every minute that these officers' attention is focused elsewhere, we are leaving our Northern Border vulnerable to illicit activity, whether it be illegal crossings by individuals, or trafficking of dangerous drugs. Drug smugglers and human traffickers are taking notice of the lack of the enforcement and growing vulnerability at the Northern Border and are using it to their advantage.

As some of my colleagues have shared, drug trafficking along the Northern Border is increasing exponentially. According to Customs and Border Protection data, drug smuggling across the Northern Border has increased by nearly 600 percent since fiscal year 2021. These drugs are pouring over the Northern Border and flowing directly into our communities, killing our citizens. The communities in my district are being ravaged by the influx of lethal fentanyl. Today, fentanyl is the leading cause of death among adults in the United States, taking more lives each year than car accidents, suicide, heart disease, or cancer. In 2021, nearly 1,300 Minnesotans died of fentanyl overdose, a staggering 22 percent increase just from the previous year. Just last week, law enforcement officials in Hennepin County, Minnesota charged 6 individuals for possession of 34 pounds of fentanyl, 14 pounds of methamphetamine, and nearly 2 pounds of cocaine. As many of us in this room have unfortunately learned in recent years, it takes only 2 milligrams of fentanyl to kill an adult. Last week's seizure, those 34 pounds of fentanyl would have been enough to kill 7.8 million individuals, or enough to kill every Minnesotan nearly 1.5 times over.

During my 23 years working as a law enforcement officer in Duluth, Minnesota, I worked tirelessly to keep illegal drugs off the streets and out of the hands of our young children. You do not know the pain until you have to give a death notification to an unsuspecting parent, as I have had to do way too many times. The drug crisis in this country has grown out of control, taking the lives

of countless Americans from all walks of life each and every day. We will never be able to overcome this epidemic until we address the Nation's porous borders and stop the flow of these drugs into our country.

Over Memorial Day weekend in 2022, resort owners along the border in my district encountered individuals trying to cross the Northern Border illegally by boat. When the resort owners went to call Customs and Border Patrol, no one answered their call. In fact, the voice mail said they were closed through the holiday. Unfortunately, illegal immigrants do not observe Federal holidays, and 5 illegal immigrants escaped into our country.

This is just one of countless examples. In fiscal year 2022, we saw nearly 110 apprehensions of illegal immigrants across our entire Northern Border. So far this year, we are on track to see well over 150,000 apprehensions, according to the latest CBP data. In Minnesota, we are currently on track to see the number of apprehensions double year over year. Keep in mind, these numbers only reflect the ones who got caught.

As Members of Congress, we have a duty to deliver results for the American people. The crisis at our Southern Border, and increasingly the growing threat at our Northern Border, is affecting the lives of Americans across the United States. We must act. Accordingly, I want to thank the Members of the Homeland Security Committee for taking on this issue. I stand ready to work with each of you to push back against the Biden administration's disastrous open border policies and once and for all address our growing dual border crisis. With that, Mr. Chair, I yield back. Thank you.

[The prepared statement of Hon. Stauber follows:]

STATEMENT OF HONORABLE PETE STAUBER

MARCH 28, 2023

Chairman Bishop, Ranking Member Ivey, and Members of the subcommittee, I would like to thank you for convening this very important hearing, as well as for allowing me the opportunity to testify today on behalf of the people of Northern Minnesota.

I am proud to represent Minnesota's 8th Congressional District, which contains a large portion of Minnesota's nearly 550-mile-long border with Canada, including important crossings like the Northwest Angle, Grand Portage, and International Falls. Throughout the 8th District, cross-border traffic, commerce, recreation, and tourism play an incredibly important role. However, rather than benefiting the lives of my constituents the proximity to our unsecured Northern Border with Canada is increasingly becoming a liability, as the effects of the Biden administration's disastrous immigration and border security policies become a part of my constituents' everyday lives. As this administration fails to properly address our growing crisis at our Southern Border, the consequences are echoing throughout communities across the United States—particularly in our Northern Border communities.

As I visit with the hardworking Customs and Border Protection Agents in my district, I hear their concerns about staffing levels and the lack of focus to the north. According to agency data, CBP staffing levels along our Northern Border have remained stagnant over the past decade, even as threats have increased. Agents in my district are being pulled away from their patrols, either being dispatched to patrol our Southern Border, or being relegated to sit in their offices to process paperwork related to illegal crossings at the Southern Border. On average, there is now only 1 officer on duty for every 275 miles of border in my district. Every minute that these officers' attention is focused elsewhere, we are leaving our Northern Border vulnerable to illicit activity, whether it be illegal crossings by individuals or trafficking of dangerous drugs. Drug smugglers and human traffickers are taking notice of the lax enforcement and growing vulnerability at the Northern Border and are using it to their advantage.

As some of my colleagues have shared, drug trafficking along the Northern Border is increasing exponentially. According to Customs and Border Protection data, drug smuggling across the Northern Border has increased by nearly 600 percent since fiscal year 2021. These drugs are pouring over the Northern Border and flowing directly into our communities, killing our citizens.

The communities in my district are being ravaged by the influx of lethal fentanyl. Today, fentanyl is the leading cause of death among adults in the United States, taking more lives each year than car accidents, suicide, heart disease, or cancer. In 2021, nearly 1,300 Minnesotans died of fentanyl overdose—a staggering 22 percent increase from the previous year.

Just last week, law enforcement officials in Hennepin County, MN charged 6 individuals for possession of 34 pounds of fentanyl, 14 pounds of methamphetamine, and nearly 2 pounds of cocaine. As many of us in this room have unfortunately learned in recent years, it takes only 2 milligrams of fentanyl to kill an adult. Last week's seizure—those 34 pounds of fentanyl—would have been enough to kill 7.8 million individuals, or enough to kill every Minnesotan nearly 1.5 times over.

During my 23 years working as a law enforcement officer in Duluth, MN, I worked tirelessly to keep illegal drugs off the streets and out of the hands of our young children. You do not know pain until you have to give a death notification to an unsuspecting parent, as I have had to do too many times. The drug crisis in this country has grown out of control, taking the lives of countless Americans from all walks of life each and every day. We will never be able to overcome this epidemic until we address this Nation's porous borders and stop the flow of these drugs into our country.

Over Memorial Day weekend in 2022, resort owners along the border in my district encountered individuals trying to cross the Northern Border illegally by boat. When the resort owners went to call Customs and Border Patrol, no one answered their call. In fact, the voice mail said they were closed through the holiday. Unfortunately, illegal immigrants do not observe Federal holidays, and 5 illegal immigrants escaped into our country.

This is just one of countless examples. In fiscal year 2022, we saw nearly 110,000 apprehensions of illegal immigrants across our entire Northern Border. So far, this year we are on track to see well over 150,000 apprehensions, according to the latest CBP data. In Minnesota, we are currently on track to see the number of apprehensions double year-over-year. And, keep in mind, these numbers only reflect the ones who got caught.

As Members of Congress, we have a duty to deliver results for the American people. The crisis at our Southern Border, and increasingly the growing threat at our Northern Border, is affecting the lives of Americans across the United States. We must act. Accordingly, I want to thank the Members of the Homeland Security Committee for taking on this issue. I stand ready to work with each of you to push back against the Biden administration's disastrous open borders policies and once and for all address our growing, dual border crisis.

Thank you.

Chairman BISHOP. Thank you, Representative Stauber. Thank you again to each of the Members for participating in the first panel and for your valuable testimony. The witnesses are dismissed and the subcommittee will stand in brief recess while the clerks arrange for the second panel of witnesses.

[Recess]

Chairman BISHOP. The committee will again come to order, please. I am pleased to welcome our second panel of witnesses. I ask at this time that the witnesses please rise and raise their right hand.

[Witnesses sworn.]

Chairman BISHOP. Let the record reflect that the witnesses have answered in the affirmative. Thank you.

I will now introduce our second panel of witnesses. Mr. Brandon Judd is the president of the National Border Patrol Council. Mr. Robert Quinn is the commissioner of the Department of Safety for the State of New Hampshire. Dr. Laura Dawson is the executive director of the Future Borders Coalition. Mr. Andrew Arthur is resident fellow in law and policy for the Center for Immigration

Studies and a former immigration judge. Thank you to each of you for being here today.

I now recognize Mr. Judd for 5 minutes for his opening statement.

**STATEMENT OF BRANDON JUDD, PRESIDENT, NATIONAL
BORDER PATROL COUNCIL**

Mr. JUDD. Chairman Bishop, Ranking Member Ivey, I really appreciate the opportunity to be here today to testify before you on behalf of my membership. I want to give a little perspective. The National Border Patrol Council, we boast the highest rate of organized membership of any other union in the entire Federal Government. Ninety percent of Border Patrol agents are voluntary members of the National Border Patrol Council, whereas the Federal Government as a whole is somewhere around 45 percent organized. We represent, to the best of our abilities, exactly what the agents would have us tell you today.

What we have seen in my 25 years of experience, 8 of those years have been spent on the Northern Border, 3 in Maine and 5 in Montana. What we are currently seeing is something that we never dreamed would have ever happened. When you look at the total numbers back in 2019, 2018, we did reach a high watermark, but that was in the best of times. We had more agents in the field than we ever had in the history. So, of course, we are going to apprehend more people when you have more people in the field.

But then you look at what we currently experience and what we have experienced in the past. When we look at what we deal with and we face on the Northern Border, you can't quantify the unknown. In fact, when I was stationed in Montana, there was a Canadian rancher who noticed that there were new trails that were going through his land. So, what he did was he set up game cams to try to figure out what was going on. He actually captured right on the Canadian-U.S. border, he captured a vehicle that pulled up and picked up several people that crossed the border illegally. He turned the footage over to the RCMP. The RCMP then turned it over to HSI. HSI did an investigation and they determined that an organization believed to be the Gulf Cartel operating out of Texas, was making regular trips up to the Northern Border and were picking up—to Montana specifically, on a regular basis, they were making these trips, and they were picking up people illegally. This was a complete and total unknown, and it had been taking place for years. So, we have no idea how many people actually enter the country illegally.

Then, of course, you have to look at what just happened north of Minnesota right there on the Minnesota-North Dakota border. When you had four Indian nationals who perished due to the weather, and they were intending to cross the border illegally. In fact, we would not have even known that they were there if it wasn't for the people that did enter the country illegally and then called 9-1-1. If it wasn't for that, we would have had no idea.

So, when you look at that, the unknown just can't be quantified. But what we do know is that it is very scary. When I look at my time on the Northern Border, I am only aware of 3 groups in the State of Maine that were apprehended, that actually crossed the

border illegally. There were countless number of incursions that actually got away, but only 3 that I am aware of that we actually detected and apprehended. That's simply because we don't have the manpower or the resources that are necessary.

When you look right now, we are deploying one agent for about every 30 miles. It's impossible to patrol the border. It's impossible to think that Border Patrol agents would be able to patrol the border when you're responsible for 30 miles for one agent. Your nearest back-up could be as far as an hour away. There was a time that I was deployed to the field, that I was the only agent that was responsible for nearly 60 miles of border. It is impossible. It's also impossible to know what's crossing when you have gaps in that coverage.

So, when we look at the number of apprehensions and we're apprehending those people with the fewest number of agents in the field that we've ever had, that is a scary prospect, especially where they're currently coming in.

When we look at all the technology and the resources, we can throw as much technology as we want at this issue, but if we do not have the manpower in the field, we will not be able to detect and apprehend these people. We must do everything that we can to retain agents. You can give me as many ground sensors, you can give me as many aero stats as you possibly want, but if I do not have the agents in the field to detect and apprehend these people, the only thing those arrow stats and the ground sensors will be doing is they will be counting our got-aways, nothing more. It is very important that we look at this issue, look at what we can do to solve this problem, and implement those solutions. I appreciate the time.

[The prepared statement of Mr. Judd follows:]

PREPARED STATEMENT OF BRANDON JUDD

MARCH 28, 2023

Chairman Bishop, Ranking Member Ivey, and distinguished Members of the subcommittee, I would like to thank you for inviting me to testify before you today in order to communicate the resource gaps and vulnerabilities that currently exist along our Northern Border with Canada.

My name is Brandon Judd and I currently serve as the president of the National Border Patrol Council, where I represent approximately 16,000 Border Patrol field agents and support staff. I have more than 25 years of experience as a Border Patrol agent and a thorough understanding of the issues and policies affecting border security. During my career as a Border Patrol agent, I have been assigned to two Northern Border Sectors—Houlton, Maine and Havre, Montana.

While nearly all of the focus in recent years has been on our Southern Border with Mexico, I applaud the committee for holding this hearing and conducting much-needed, and timely, oversight of the lack of resources and the very real vulnerabilities that exist along our Northern Border.

Our 5,500-mile land and water border with Canada is well over twice the length of our border with Mexico. Even with such a vast amount of territory to patrol, we have only about 2,000 Border Patrol agents assigned to the Northern Border. Given the 24/7 nature of our work, which is spread across 3 shifts per day, this leaves us with only about 450 agents on duty at any one time. That is all.

Our Northern Border has some of the most rugged conditions you can imagine, both in terms of topography as well as weather, and we have to patrol it without the infrastructure we have along the Southern Border. We have many agents who lack the ability to simply communicate with one another in the field. Even when they can talk, back-up might be more than an hour away if they request assistance.

To help the subcommittee better understand the threat landscape, last year about 107,000 individuals were denied entry into the United States from Canada. About

40,000 of these individuals were Canadians and were most likely denied entry because of a criminal record. The other 60,000 were not from Canada and tried to enter our country through the front door but were denied. Many of them will now try to enter the United States between the ports of entry where there are limited personnel resources are spread razor-thin.

Furthermore, Canada has a more permissive visa system than we have in the United States. Let me give you two examples. First, Mexican citizens can travel to Canada without a visa. Mexican citizens can land in Toronto and illegally cross into New York in just a couple of hours. They don't have to contend with security measures such as fencing, aerostats, or drones, like we have on the Southern Border. Individuals crossing illegally can cross either on land or even more easily by boat on one of the Great Lakes if the weather is good.

Second, Chinese tourists or students seeking entry to the United States are required to provide extensive documentation including being interviewed at a U.S. consulate. However, the bar for a visa to Canada is lower. They can land in Vancouver and, in a matter of hours, illegally cross our border by land or by boat into Washington State.

Canada is a sovereign country and they are free to determine who is eligible to enter their country, be granted asylum, or resettled as a refugee. Last year Canada processed over 4.8 million visa applications. This is for a country of 38 million people. In contrast, we processed 6.8 million visa applications, and we have a population of 330 million. So the number of travelers to Canada is significant.

The reality is that while the vast majority of those visa applicants to Canada are likely law-abiding individuals, there are many that see entry to Canada as a gateway to the United States given our more stringent visa standards.

Last year, Border Patrol apprehended over 2,000 people along the Northern Border. However, because we lack the personnel and situational awareness on the Northern Border, and due to the forced deployment of agents stationed on the Northern Border down to the Southern Border—in response to President Biden's border crisis—we are apprehending only a small fraction of illegal crossings.

While I have described a number of vulnerabilities and challenges we're contending with along the Northern Border, Congress does have the ability to dramatically improve border security, situational awareness and agent safety along both the Northern and Southern Borders.

Border Patrol staffing currently hovers around 19,300 agents Nation-wide. In February, Tucson Sector Chief John Modlin testified before the House Oversight and Accountability Committee that Border Patrol needs at least 22,000 agents to deal with the current crisis.

Increasing net personnel by 2,700 agents is going to take a tremendous effort that will require us to do two things simultaneously. First, we need to keep the agents we already have and recruit more agents. Sounds simple, but we have a problem. Border Patrol's attrition rate is currently 6.9 percent which is 72 percent higher than the Office of Field Operations. Furthermore, our attrition rate is expected to climb to over 9 percent by 2028.

The primary reason we cannot adequately recruit and retain agents is that we lack pay parity with other Federal law enforcement agencies.

If we continue to hemorrhage personnel, there is no way we will secure the border. We have spent billions on fencing, aircraft, and technology over the course of my career. All of these investments are important—and I want to thank you for it. However, we have not sufficiently invested in our agents, which are the most important element in border security.

Last Congress, Senators Portman, Sinema, Lankford, and Kelly introduced S. 4775 which has a provision, section 4, to address our recruitment and retention issues. I know the committee is working on significant reform legislation to address the border crisis and we greatly appreciate your efforts. I respectfully ask that you take action and that action must include addressing our recruitment and retention issues.

I thank the subcommittee for inviting me here today and I look forward to answering any questions you may have.

Chairman BISHOP. Thank you, Mr. Judd. Mr. Quinn, you are now recognized for your 5 minutes.

**STATEMENT OF ROBERT QUINN, COMMISSIONER,
DEPARTMENT OF SAFETY, STATE OF NEW HAMPSHIRE**

Mr. QUINN. Good afternoon, Mr. Chair, and Members of the committee. My name is Robert Quinn. I am the commissioner of the

New Hampshire Department of Safety, which oversees the New Hampshire Divisions of State Police and Homeland Security. By way of background, I was a sworn law enforcement officer for 30 years with the New Hampshire State Police, culminating as the colonel before eventually becoming commissioner of the department.

I have been invited here today to testify about New Hampshire's recent efforts to augment and support the humanitarian crisis that appears to be building along the Canadian border in our neighboring States. New Hampshire shares an international border with Canada that is over 50 miles long and lies within what is known as the U.S. Border Patrol's Swanton Sector. The Swanton Sector includes the border area containing New Hampshire, Vermont, and a small portion of New York.

Just this past Friday, I had the fortune of touring our Northern Border in New Hampshire and meeting some of the excellent State, local, and Federal law enforcement officers who work along the border. New Hampshire is unique in that the vast majority of our border consists of State forest land accessible through one main road and an intricate system of forest roads built for logging companies, and snowmobile and ATV enthusiasts. Many of these roads are not on GPS maps, touch the Northern Border, and can only be traversed by offroad vehicles. In the winter, the terrain is cold, snow-bound, and difficult to travel using conventional vehicles. I learned on Friday that Pittsborough, New Hampshire, which is the town along the border, is the largest town by area in New England, with 281.3 square miles of vast mountainous terrain and overseen by a part-time chief and one part-time officer. Just for perspective, I was told it takes over an hour to reach the closest hospital to the border. As with most Northern Border States, travel times can greatly increase based on local weather conditions.

On January 25, 2023, the U.S. Border Patrol announced that the Swanton Sector witnessed a 743 percent increase in apprehensions and encounters in the first quarter of the Federal fiscal year 2023 when compared to the same period a year ago. Apprehensions and encounters from October to December increased from 136 in 2021 to 1,146 in 2022, exceeding the 1,065 apprehensions and encounters for all of 2021. As of early March 2023, the total number of apprehensions in this area was 2,227. While this amount appears small in comparison to numbers experienced at the Southern Border, this is a large and unexpected increase for a very remote area of the country with few resources available to address it. To be clear, although New Hampshire has seen an increase in crossings, we have not seen the large increases that Vermont is presently experiencing. However, as more resources focus on the Vermont border, I believe it is only a matter of time for New Hampshire to experience the same or similar increases.

During my recent visit to the border, I met with the State police troop commander who was responsible for patrolling the north country. He indicated that it is important to be aware that many noncitizen migrants are victims of human trafficking. During my conversations with the local police chief and residents, I learned that many are generally nervous due to reports of increased activity and significant drug seizures in recent years. I spoke with an

individual who was concerned and nervous when she returns home after work that increased border crossings will result in individuals trespassing on her property.

New Hampshire is not waiting for the crisis to cause further impact to our State. Without complete operational control of the Northern Border in New Hampshire, we learned our residents are at increased risk. Under the leadership of Governor Chris Sununu, our State started taking steps to address the crisis in January. As I understand from the New Hampshire Attorney General's Office, the U.S. Supreme Court has placed Constitutional limits on what types of border protection laws they can enact on their own. However, under existing Federal law, the U.S. Department of Homeland Security has the ability to deputize State and local law enforcement officers with the authority to enforce Federal immigration laws by entering into an agreement under U.S.C. 1357(g), sometimes referred to as a Section 287 agreement or an ICE Delegation agreement. From our perspective, it's critical that Homeland Security delegate its authority to our State police to detain and apprehend those who are crossing the border illegally into our State.

We started the process to obtain such a delegation back in early February, culminating with a letter dated February 17, 2023, in which we formally requested that the Federal Government delegate its authority to enforce Federal border security laws. On that same day, we received a response explaining no agreement could be entered into due to a national freeze on all delegation agreements, and that no one-off custom agreements were authorized either. Unfortunately, 2 days later, we received word that a migrant passed away while attempting to cross the border in the Swanton Sector. Although that occurred in Vermont, we certainly want to use every public safety resource available we can to prevent this from happening in New Hampshire.

Our troopers are accustomed to having presence along the border and are among the most professional and dedicated law enforcement officials in the country. Since they have experience along the border, I believe it'd be seamless for them to augment and support the border security effort through a delegation. After we received the denial from Homeland Security at the regional level, Governor Sununu spoke with Homeland Security Director Mayorkas about this and sent a letter directly to him asking his department to enter into such an agreement. To date, Homeland Security has not granted our State a delegation agreement, and no one from the department has reached out to any State officials to begin drafting such an agreement.

There is one other request that we have made to the Department of Homeland Security that has also not been addressed. Since approximately 2011, the State police have assisted in patrolling the Northern Border through a grant funded by FEMA, another State agency within the Department of Homeland Security, by participating in what is—

Chairman BISHOP. Mr. Quinn, your time has expired. If you could wrap up in just a little bit, I would appreciate it.

Mr. QUINN. So, in this last request, in our request, we asked for \$337,000 to fund Operation Stone Garden. We appropriated

\$180,000, not allowing for more patrols and 3 ATVs. So, we would respectfully request that these two requests be honored.

[The prepared statement of Mr. Quinn follows:]

PREPARED STATEMENT OF ROBERT QUINN

Good morning/afternoon, Mr. Chair, Members of the Committee: My name is Robert Quinn, I am the commissioner of the New Hampshire Department of Safety which oversees the New Hampshire Divisions of State Police and Homeland Security. By way of background, I was a sworn law enforcement officer for 30 years with the New Hampshire State Police culminating with my appointment as the colonel before eventually becoming the commissioner of the Department.

I have been invited here today to testify about New Hampshire's recent efforts to augment and support the humanitarian crisis that appears to be building along the Canadian border in our neighboring States. New Hampshire shares an international border with Canada that is over 50 miles long and lies within what is known as the U.S. Border Patrol's Swanton Sector. The Swanton Sector includes the border area containing New Hampshire, Vermont, and a small portion of New York.

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On January 25, 2023, the U.S. Border Patrol announced that the Swanton Sector witnessed a 743 percent increase in apprehensions and encounters in the first quarter of the Federal fiscal year 2023 when compared to the same period a year ago. Apprehensions and encounters from October to December increased from 136 in 2021 to 1,146 in 2022 exceeding the 1,065 apprehensions and encounters for all of 2021. As of early March 2023, the total number of apprehensions in this area was 2,227. While this amount appears small in comparison to numbers experienced at the Southern Border, this is a large and unexpected increase for a very remote area of the country with few resources available to address. To be clear, although New Hampshire has seen an increase in crossings, we have not yet seen the large increase that Vermont is presently experiencing. However, as more resources focus on the Vermont border, I believe that it is only a matter of time for New Hampshire to experience the same or similar increases.

During my recent visit to the border, I met with the State Police Troop Commander who is responsible for patrolling the north country. He indicated that it is important to be aware that many non-citizen migrants are victims of human trafficking. During my conversations with the local police chief and the residents I learned many are generally nervous due to reports of increased activity and significant drug seizures in recent years. I spoke with an individual who was concerned and nervous when she returns home after work that increased border crossing will result in individuals trespassing on her property.

New Hampshire is not waiting for this crisis to cause further impact to our State. Without complete operational control at the New Hampshire border, we leave our residents at increased risk. Under the leadership of Governor Chris Sununu, our State started taking steps to address the crisis in January. As I understand from New Hampshire Attorney General's Office, the United States Supreme Court has placed Constitutional limits on what types of border protection laws they can enact on their own. However, under existing Federal law, U.S. Department of Homeland Security has the ability to deputize State and local law enforcement officers with the authority to enforce several Federal immigration laws by entering into an agreement under 8 U.S.C. § 1357(g). This is sometimes referred to as a Section 287(g) agreement or a "I.C.E. Delegation Agreement." From our perspective, it is critical that Homeland Security delegate its authority to our State Police to detain and apprehend those who are crossing the border illegally in our State.

We started the process to obtain such a delegation back in early February, culminating with a letter dated February 17, 2023, in which we formally requested that the Federal Government delegate its authority to enforce Federal border security laws. On that same day, we received a response explaining that no agreement could be entered into due to a national freeze on all delegation agreements and that no one-off custom agreements were authorized either. Unfortunately, 2 days later we received word that a migrant passed away while attempting to cross the border in the Swanton Sector. Although that occurred in Vermont, we certainly want to use every public safety resource available we can to prevent that from happening in New Hampshire.

Our troopers are accustomed to having a presence along the border and are among the most professional and dedicated law enforcement officials in the country and since they have experience along the border, I believe that it would be seamless for them to augment the border security effort through a Delegation Agreement. After we received a denial from Homeland Security at the regional level, Governor Sununu spoke with Homeland Security Secretary Mayorkas about this and sent a letter directly to him, asking his department to enter into such an agreement. To date Homeland Security has not granted our State a delegation agreement and no one from his Department has reached out to any State officials to begin drafting such an agreement.

There is one other request that we have made of the Department of Homeland Security that has not yet been addressed. Since approximately 2011, State Police has assisted in patrolling the Northern Border through a grant funded by F.E.M.A., another agency within the Department of Homeland Security, by participating in what is known as Operation Stone Garden. Operation Stone Garden is a joint task force where State, county, and local law enforcement officers partner with the U.S. Border Patrol to conduct joint patrols along New Hampshire's border with Canada. Last year, State and local participants requested collectively approximately \$337,000 for additional Border Patrol details and funds to purchase three (3) all-terrain vehicles for State and local law enforcement agencies. Homeland Security denied this request for additional resources, including the vehicles, and instead level-funded (with the 2021 grant year) the Stone Garden Grant at \$180,000. In his letter to Secretary Mayorkas, Governor Sununu requested that his Department reconsider this decision to give our State, county, and local law enforcement officers the funds and tools needed to help protect the border in this Operation.

We believe it is imperative to quickly respond to today's crisis with enhanced border security and prevent any further loss of life and limit illicit activity along our border. New Hampshire cannot fully unlock its resources for this effort without the help of the leadership at Homeland Security. I cannot emphasize enough that the I.C.E. and Border Patrol agents working along the New Hampshire border are hard-working and doing the best they can. New Hampshire law enforcement stands by ready to assist them just as soon as Homeland Security authorizes a Delegation Agreement and provides the requested increase in funding for Operation Stone Garden.

In the mean time, our Governor, in his 2024/2025 budget has proposed dedicating approximately \$1,400,000 toward the creation of a Northern Border Alliance Program. If enacted, this program will establish a task force of State, county, and local law enforcement officers to patrol the roads, highways, and State forest land along the border to detect and deter illegal activity and to prevent any further escalation of the humanitarian crisis facing our borders.

We believe all of the above efforts, done in conjunction with one another, will prevent the Northern Border crisis from escalating within New Hampshire's borders.

Thank you for your time and attention to this important matter. I am happy to take any questions.

Chairman BISHOP. Thank you, Mr. Quinn. I appreciate that. Now, I recognize Dr. Dawson for her 5 minutes for her opening statement.

STATEMENT OF LAURA DAWSON, EXECUTIVE DIRECTOR, FUTURE BORDERS COALITION

Ms. DAWSON. Thank you. Good morning, Chairman Bishop, Ranking Member Ivey, and Members of the subcommittee. Thank you for the opportunity to speak to you today. My name is Laura Dawson, and I'm the executive director of the Future Borders Coa-

lition, which is a U.S.-Canada organization dedicated to better borders for travel and trade.

The Northern Border is a vital gateway for U.S. prosperity and jobs. Our two countries, as you've heard, boast the longest international border, spanning 5,525 miles, alongside 13 U.S. States and 8 Canadian provinces and territories. Every day, 400,000 people and \$2 billion in trade cross that border, and the vast majority of those crossings are problem-free.

On the trade side, Canada is the largest customer for 30 U.S. States. Canadians buy more than \$30 billion worth of American goods annually. That's more than the United Kingdom, Japan, and Germany combined. On travel, Canada is the largest—Canada is the United States' largest source of tourism revenue at approximately \$20 billion a year. Tourist services are a top export to Canada.

Adding new impediments to cross the border hurts Americans, especially in vulnerable Northern Border communities such as Sault Ste. Marie, Michigan, which is about half a mile from where I was born. So, before we start piling on new barriers, we must have a realistic view of the risks. We have been hearing a lot about multi-thousand percent increases in CBP encounters on the U.S.-Canada border. These numbers will get your attention to be sure. But the data presented compares the present day with early 2021, when borders were all but closed for COVID. Of course, we are going to see a much busier border nowadays. What do we mean by encounters? It turns out these can be anything from an irregular migration crossing to someone who forgets to bring their passport to the border.

Clearly, the risks we should be worried about are people crossing between official border posts. Of the 165,000 Northern Border encounters reported by CBP since the start of fiscal year 2022, only 2.7 percent, I repeat, 2.7 percent have occurred between official border points of entry. In absolute terms, we are talking about approximately 4,500 people. Now, this is not nothing. Canada and the United States must work together to bring these numbers down. But to give you a sense of proportion, between October 1, 2022, and February 28, 2023, just 0.5 percent, that's one-half of 1 percent of Border Patrol encounters outside of normal ports of entry occurred along the Northern Border.

So, what does a secure and efficient U.S.-Canada border look like? Well, on immigration, we have to remember that Canada is a sovereign nation, so it will have different immigration rules from those of the United States. These are not necessarily looser or easier, they're just different. For example, Canada uses employment skills as a deciding factor for immigrant applications. Canada also welcomes temporary foreign workers to do specific jobs for time-limited periods. Their work authorization is not connected to citizenship. Canada and the United States have a long history of working together, such as last week's amendments to the Safe Third Country Agreement, which will stem the tide of asylum-seekers crossing into Canada at non-border posts. This is also a great example of Canada and the United States working together on a really challenging treaty issue where they were able to make progress in heroic time.

Both countries also have a role to support stability in Latin America and the Caribbean, thereby ensuring that the burden does not rest on the United States alone. On law enforcement, one of the great strengths of the U.S.-Canada relationship is that officials speak to each other each and every day. There are also formal mechanisms for collaboration such as the Ship Rider program and the Cross-border Crime Forum.

Compared to what most countries are dealing with, the U.S.-Canada border is the envy of the world but there's always room for improvement. Here are some suggestions where investment should be sustained or increased. I agree with Mr. Judd that we do need more investment in our Border Patrol and border personnel.

Sufficient staffing means that trusted traders can sail through designated corridors without excessive wait times, and bad actors can be more easily identified and dealt with. PreClearance and trusted traveler programs filter out those who mean us harm and prevents them from reaching U.S. soil. Infrastructure modernization means that bridges, tunnels, roads, and rail crossings can meet volume demands and are resilient in the face of climate challenges and cyber attacks.

With technologies like facial biometrics, officials don't have to make on-the-spot judgments about who to admit. With the right technology, officers can confirm admissibility using data collected and verified before the person or vehicle reaches the border crossing.

The secure and prosperous U.S.-Canada border is unique in the world and it cannot be taken for granted. It is both a shared benefit and a shared responsibility for our two nations. Thank you.

[The prepared statement of Ms. Dawson follows:]

PREPARED STATEMENT OF LAURA DAWSON

TUESDAY, MARCH 28, 2023

Good morning, Chairman Bishop and Members of the committee. Thank you for the opportunity to speak to you today.

My name is Dr. Laura Dawson and I am the executive director of the Future Borders Coalition—We are a U.S.-Canada organization dedicated to building better borders for travel and trade.

First, I'd like to talk to you about the importance of the Northern Border for U.S. prosperity and jobs.

The United States and Canada boast the world's longest international border, spanning 5,525 miles, adjacent to the territory of 13 U.S. States and 8 Canadian provinces and territories, under the management of 119 official land border crossings.

Every day, 400,000 people and \$2 billion in trade cross the border. The vast majority of those crossings are problem-free.

On the trade side, Canada is the largest buyer of U.S. products for 30 U.S. States. Canada buys \$300 billion in goods and \$100 billion in services annually from the United States.

Canada buys more from the United States than do the United Kingdom, Japan, and Germany combined.

The United States and Canada build things together through integrated and effective supply chains, building good jobs at in both countries and competitiveness in the world.

On travel, Canada is the United States' largest source of tourists and tourism revenue. Valued at around \$23 billion per year during the pre-COVID period, tourist services used to be the United States' sixth largest export to Canada.¹

I use the past tense, because while air travel numbers have recovered post-pandemic, passenger vehicle crossings and day trips have not.² This is especially difficult for border communities in remote areas such as Grand Forks, North Dakota, and Sault Ste Marie, Michigan which are closer to Canadian population centers than American ones.³

Adding new impediments to cross the border hurts the prosperity of Americans and Canadians. This does not mean abrogating our shared commitment to border security but it does mean having a realistic view of what our challenge areas are and how to address them.

We have heard recently about multi-thousand percent increases in CBP "encounters" on the U.S.-Canada border in recent years but it's important to compare apples to apples. The data presented by the Northern Border Security Caucus compares the present day with early 2021 when land borders were closed due to COVID for all non-essential travel.⁴

It's also important be clear on what we're talking about so that we respond appropriately.

What do we mean by "encounters"? These can be anything from an irregular migration crossing to someone showing up at the border without a passport or vaccination record.

Clearly, the security priority should be irregular migration that takes place between border crossings. Of the 165,000 Northern Border encounters reported by CBP since the start of fiscal year 2022, only 2.7 percent of these occurred between official border ports of entry.

In absolute terms, we are talking about some 4,500 people being stopped from migrating from Canada into the United States. This is not nothing, and this challenge must be dealt with appropriate tools, border staffing, and cooperation between the United States and Canada.

And, while my role here is not to pit U.S.-Canada border against the U.S.-Mexico border, it is important to maintain a sense of proportion. Between October 1, 2022 and February 28, 2023, just 0.5 percent (one half of 1 percent) of U.S. Border Patrol encounters outside normal Ports of Entry occurred along the U.S.-Canada border.

WHAT DOES SAFE AND EFFECTIVE U.S. CANADA BORDER MANAGEMENT LOOK LIKE?

On immigration, the first thing to keep in mind is that Canada, as a sovereign nation, may have different rules when it comes to immigration but these are not looser or easier than the United States—just different. Canada has a well-developed skills-based migration program, it has temporary foreign worker programs that welcome specialized workers for on-going work periods in Canada punctuated by returns to home countries, work authorization that is unconnected to citizenship. Canada also has a successful program for community-based sponsorship of new refugees. Many of the lessons from the Canadian program have been used as a model for the U.S. Welcome Corps program.

As we look to the future, Canada and the United States must work together to help manage the push factors that are sending asylum seekers to our borders. Both countries have a role to support democratization and stability in Latin America and the Caribbean, thereby helping to help mitigate the crisis on the U.S. Southern Border and ensure the burden does not rest on the United States alone.

¹See U.S. Travel Canada Factsheet 2018, https://www.ustravel.org/system/files/media_root/document/Research_Country-Profile_Canada.pdf.

²In January 2023, Canadian residents returned from 2.7 million trips to the United States, 4 times the number taken in January 2022 (690,200) and 89.4 percent of the pre-pandemic level from the same month in 2020. The number of trips returning by air was 1.1 million, higher (+18.2 percent) than the same month in 2020, exceeding the pre-pandemic level for the fifth consecutive month since September 2022. Of the total return trips by Canadian residents in January 2023, 1.6 million trips were by automobile, nearly two-thirds (64.6 percent) of which were same-day (Source: Statistics Canada).

³See Tu-Uyen Tran, "Canadian shoppers and tourists return to border cities but in smaller numbers than pre-pandemic," *Federal Reserve Bank of Minneapolis* (July 25, 2022). <https://www.minneapolisfed.org/article/2022/canadian-shoppers-and-tourists-return-to-border-cities-but-in-smaller-numbers-than-pre-pandemic>.

⁴See Alexander Panetta, "Republicans talked about the Canadian border. They skipped all sorts of details," *Canadian Broadcasting Corporation* (March 3, 2023). Data cited from U.S. CBP and Canada Border Services Agency (CBSA) sources. <https://www.cbc.ca/news/world/republicans-canada-border-analysis-1.6767883>.

Where there are frictions, Canada and the United States have a long history of working together to find equitable and effective solutions, such as the recently-announced amendments to the Safe Third Country Agreement which contributed to surging numbers of asylum seekers crossing into Canada at non-border posts. To help share the burden with the United States, Canada agreed to accept an additional 15,000 asylum seekers per year from Western Hemisphere countries and work with the United States to promote lawful labor mobility pathways.

On law enforcement, one of the great strengths of the United States-Canada relationship is that American and Canadian officials have a personal relationship with their counterparts and are in communication every single day. There is no other country for which this is the case. When there is a question or problem U.S. and Canadian officials have each other's backs.

But, sometimes person-to-person relationships are not enough. There are also formal mechanisms for collaboration such as the Shiprider program where jointly crewed vessels enforce the law on both sides of the border in international waterways. There are trusted trader and trusted traveler programs, joint deployments U.S. ATF and DEA officials and the RCMP, and numerous intelligence-sharing agreements to share information on cross-border crime and prevent immigration fraud. Many of these initiatives are advanced through the Cross-Border Crime Forum. Launched in 2022, this is a bilateral effort to tackle such joint challenges as cyber crime, violent extremism, human smuggling, and firearms.

SUPPORT FOR CBP

I am firmly convinced that the U.S.-Canada Border is strong, secure, and a conduit for prosperity and employment in both of our nations. But that doesn't mean there isn't room for improvement. I urge all Members of Congress to support investment in U.S.-Canada border infrastructure, bilateral economic development programs, and to provide the dedicated men and women who are our border officials with the financial resources, tools, and technology they need to build and sustain the smart and secure border of the 21st Century.

An investment in Northern Border staffing and infrastructure helps both security and commerce at the same time. Sufficient staff means that trusted traders can sail through designated corridors without excessive wait times. Infrastructure modernization means that bridges, tunnels, road and rail crossings that can meet volume demands and are resilient in the face of climate challenges and cyber attacks.

State-of-the-art technologies such as AI sensors for vehicles and facial biometric tools mean that officials don't have to make on-the-spot judgments about admissibility with insufficient data. With the right technology and the staffing to use it, officers can confirm admissibility using data collected and verified before the vehicle reaches the border crossing.

Airports and even cruise ships play a role in securing the U.S. border. U.S.-Canada PreClearance and trusted traveler programs filter out bad actors before they reach U.S. soil. They are also good for the economy, inspiring even more Canadian tourists to spend money and time in the United States.

The secure, and prosperous, U.S.-Canada border is unique in the world and cannot be taken for granted. It is both a shared benefit and a shared responsibility for our two nations.

ADDITIONAL INFORMATION

Cross-Border Crime Forum, <https://www.justice.gov/opa/pr/us-and-canada-reestablish-cross-border-crime-forum>.

Canada Travel, https://www150.statcan.gc.ca/n1/en/subjects/travel_and_tourism/international_travel.

U.S. Travel, https://www.us.travel.org/sites/default/files/2022-08/inbound-travel-market-profile_ca_mx_fin.pdf.

Chairman BISHOP. Thank you, Dr. Dawson. I now recognize Mr. Arthur for 5 minutes for his opening statement.

STATEMENT OF ANDREW R. ARTHUR, RESIDENT FELLOW IN LAW AND POLICY, CENTER FOR IMMIGRATION STUDIES

Mr. ARTHUR. Thank you. Chairman Bishop, Ranking Member Ivey, and Members of the subcommittee, thank you for inviting me here today to discuss these important and increasingly topical issues. Sorry about that.

CBP encounters the total of aliens deemed inadmissible at the ports of entry, plus aliens apprehended between those ports, as the Ranking Member noted, at the U.S. border have surged under the Biden administration from just over 27,000 CBP encounters at the Northern Border in fiscal year 2021, to encounters well over more than 109,000 aliens in fiscal year 2022. CBP is on pace for more than 165,000 Northern Border alien encounters in fiscal year 2023.

The majority of those encounters, again as the Ranking Member noted, have involved aliens at the ports where the demographics are changing quickly. Whereas most 60 percent of the aliens deemed inadmissible at those ports in fiscal year 2021 were Canadian nationals, likely aliens inadmissible on criminal and other grounds, more than 77 percent of the aliens stopped at the northern U.S. ports this fiscal year came from somewhere else, including nearly 16,000 Indian nationals. But most troubling, more than 27,000 nationals of other countries. Those are countries that aren't included in DHS's list of 21 top migrant-sending countries.

Border Patrol apprehensions, again, as the Ranking Member noted, at the Northern Border are lower than port encounters, but the figures are still high and rising. Northern Border apprehensions increased 144 percent between fiscal year 2021 and fiscal year 2022 to more than 2,200 and are nearing 3,000 in just the first 5 months of fiscal year 2023, on track to top 6,800 this fiscal year. Just 44 of those illegal entrants have been Canadians, while more than 1,600 are Mexican nationals, likely aliens who exploited visa free travel to Canada to cross the Northern Border illegally, where they're all but guaranteed not to be expelled under Title 42.

Credible reports, including some from the Federal Government, reveal that cartel members and transnational criminal organizations are operating across the Northern Border smuggling guns—drugs, guns, and migrants. They're able to exploit an already understaffed Border Patrol, which has been further weakened, as the Chairman noted, as agents were stripped from the Northern Border and sent to deal with the chaos at the Southwest Border. In a twist, a surge of third-country aliens, including migrants released after apprehension at the Southwest Border, have flooded into Canada, seeking the generous benefits offered to asylum applicants there.

That has strained both Federal and provincial governments north of the border. To stem that surge, the Trudeau government has renegotiated a 2004 agreement between that country and the United States that limits asylum claims by third country aliens crossing the Northern Border. As amended, that agreement now applies to illegal entrants as well, not just aliens at the ports as in the past, a move that benefits Canada to the detriment of the United States. More than 40,003 third-country migrants claimed asylum in Canada at just one entry point last year. Under this amendment, nearly all such entrants from this point forward will be sent back to the United States. This move is a tacit admission by the Biden administration that its catch-and-release policies at the Southwest Border, which a Federal judge just determined this month are driving the migrant surge there, are harming Canada's security and its taxpayers.

To address the national security and humanitarian disaster at the Southwest Border the administration should extend a similar courtesy to our overworked agents and State governments Nation-wide that are straining under a massive increase in newly-released migrants. President Biden inherited what his first Border Patrol chief described as, “arguably the most effective border security in our Nation’s history,” which he squandered as “common-sense border security recommendations from experienced career professionals were ignored and stymied by inexperienced political appointees.”

The effects of that erosion in border security are being felt in towns and cities Nation-wide. Drug poisoning deaths are hitting new records. Cities as big and rich as New York are scrambling to provide for newly-arrived migrants and our national security is increasingly imperiled. Never in my 31 years of involvement in immigration including at some of the highest levels of government have I ever seen our borders in such dire shape. The catastrophe at the Southwest Border is now exacerbating and driving a smaller but increasingly significant disaster at our Northern Border where the number of migrant deaths is growing as apprehensions on both sides of the border swell.

For the good of the United States and of our partner in Canada with whom we are each other’s largest exporting countries, Congress must act. Action is already overdue. I thank you again and I look forward to your questions.

In the last couple of seconds I have left, Mr. Bishop, I do want to make an interesting notation. The Ranking Member, Mr. Ivey, represents the 4th District of Maryland. I don’t know if you’re aware of this, but Henry Stockbridge, who was one of your predecessors in that role, actually left Congress so he could become the Immigration Commissioner at the Port of Baltimore. Under Commissioner Stockbridge, many of my relatives and many of the relatives of my friends came into our country. I thank you. I thank the 4th District of Maryland. With that I yield back.

[The prepared statement of Mr. Arthur follows:]

PREPARED STATEMENT OF ANDREW R. ARTHUR

MARCH 28, 2022

Chairman Bishop, Ranking Member Ivey, and Members of the subcommittee, I thank you for inviting me here today to discuss the increasing insecurities at our Northern Border.

Lost amidst the chaos at the Southwest Border is a burgeoning surge of migrants at the Northern Border—the international boundary between the United States and Canada. While the number of U.S. Customs and Border Protection (CBP) Northern Border encounters is low compared to the Southwest Border, what is happening at the Northern Border is still troubling—particularly in the Border Patrol’s Swanton (Vt.) Sector.

THE NORTHERN BORDER

The Northern Border is massive, stretching 5,525 miles¹ and separating 7 Canadian provinces (New Brunswick, Québec, Ontario, Manitoba, Saskatchewan, Alberta,

¹“Boundary Facts”. *Int’l Boundary Comm.* (undated). Source: <https://www.internationalboundarycommission.org/en/the-boundary-and-you/interestingfacts.php#:~:text=The%20International%20Boundary%20Commission%2C%20under,on%20256%20official%20boundary%20maps>.

and British Columbia) and one territory (Yukon) from 13 U.S. States (Maine, New Hampshire, Vermont, New York, Pennsylvania, Ohio, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska).²

Some 2,380 of those boundary miles cut across bodies of water, including the St. Lawrence River and Seaway, 4 of the 5 Great Lakes (Lake Ontario, Lake Erie, Lake Huron, and Lake Superior), and through Boundary Bay, the Strait of Georgia, the Haro Strait, and the Pacific Ocean.

By contrast, there are 3,145 miles of Northern land border,³ much of it rugged, isolated, and relatively unpopulated.

There are about 120 land-border ports of entry along the Northern Border,⁴ through which \$2.6 billion in goods and services pass daily.⁵ As the State Department explains:

“Canada and the United States are each other’s largest export markets, and Canada is the No. 1 export market for more than 30 U.S. States. In addition, Canada is the single largest foreign supplier of energy to the United States.”⁶

NORTHERN BORDER PATROL SECTORS

There are 8 Border Patrol sectors along the Northern Border.⁷

The easternmost is Houlton Sector,⁸ which has jurisdiction over the State of Maine, with stations in Van Buren, Jackman, Fort Fairfield, Houlton, Rangeley, and Calais, Me.⁹

Heading west, the next sector is Swanton,¹⁰ with jurisdiction over about 24,000 square miles including Coos, Grafton, and Carroll Counties in New Hampshire; all of Vermont; and Clinton, Essex, Franklin, St. Lawrence, and Herkimer Counties in New York.¹¹

The sector has responsibility for 295 miles of border (203 on land and 92 on water, primarily the St. Lawrence River),¹² and there are 8 stations in Swanton Sector: at Ogdensburg, N.Y.; Massena, N.Y.; Burke, N.Y.; Champlain, N.Y.; Swanton, Vt.; Richford, Vt.; Newport, Vt.; and Beecher Falls, Vt.¹³

Directly to the west of Swanton Sector is Buffalo Sector,¹⁴ which has jurisdiction over 29 counties, including all the western portion of New York State, and parts of central New York and Pennsylvania.¹⁵ The 450 miles of international border in Buffalo Sector is almost all over water, including Lake Erie and Lake Ontario, the Niagara River, and part of the Saint Lawrence Seaway.¹⁶

The sector has five stations in New York State (Buffalo, Niagara Falls, Rochester, Oswego, and Wellesley Island), and in Erie, Pa.¹⁷

Bordering Buffalo Sector to the west is Detroit Sector,¹⁸ which has jurisdiction over 863 miles of the Northern Border, and the States of Michigan, Indiana, Ohio, and Illinois. The sector is headquartered at Selfridge Air National Guard Base, Mich., and it has 4 stations in Michigan (at Detroit, Marysville, Sault Ste. Marie, and Gibraltar) as well as a station in Port Clinton, Ohio.¹⁹

²Id.

³Id.

⁴“U.S. Relations With Canada”. *U.S. Dep’t of State* (undated). Source: <https://www.state.gov/u-s-relations-with-canada/>.

⁵Id.

⁶Id.

⁷“Border Patrol Sectors”. *U.S. Customs and Border Protection* (undated). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors>.

⁸“Houlton Sector Maine”. *U.S. Customs and Border Protection* (modified July 22, 2022). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/houlton-sector-maine>.

⁹Id.

¹⁰“Swanton Sector Vermont”. *U.S. Customs and Border Protection* (modified July 22, 2022). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/swanton-sector-vermont>.

¹¹Id.

¹²Id.

¹³Id.

¹⁴“Buffalo Sector New York”. *U.S. Customs and Border Protection* (modified July 25, 2022). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/buffalo-sector-new-york/>.

¹⁵Id.

¹⁶Id.

¹⁷Id.

¹⁸“Detroit Sector Michigan”. *U.S. Customs and Border Protection* (modified July 25, 2022). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/detroit-sector>.

¹⁹Id.

The adjoining Grand Forks Sector²⁰ is massive, with jurisdiction over 861 miles of the Northern Border (403 on land, 458 on water) in North Dakota and Minnesota.²¹ There are 6 stations in the sector, 3 in North Dakota (Portal, Bottineau, and Pembina) and 3 in Minnesota (Warroad, International Falls, and Grand Marais), as well as “back-up stations” in Grand Forks, N.D. and Duluth, Minn.²²

Heading west, the next sector is Havre, in Montana,²³ with jurisdiction over 456 miles of the Northern Border in eastern Montana (ending at the Continental Divide) served by 6 stations in (at Havre, Plentywood, Scobey, Malta, Sweetgrass, and St. Mary, Mont.).²⁴

In western Montana, Idaho, and eastern Washington is Spokane Sector,²⁵ with jurisdiction over 308 miles of the Northern Border, including the Cascade Mountain Range and 3 miles of water boundary.²⁶

Spokane Sector has Eureka and Whitefish Stations in Montana; Bonners Ferry Station in Idaho; and Oroville, Curlew, Colville and Metaline Falls Stations as well as sector headquarters in Spokane in Washington State.²⁷

Responsibility for the western part of Washington State and Alaska falls on Blaine Sector,²⁸ with stations in Blaine, Sumas, Bellingham, and Port Angeles, Washington.²⁹

BORDER PATROL STAFFING

Given the awesome length of the Northern Border, it is understaffed by any measure, and certainly compared to the 1,954-mile³⁰ U.S. Southwest Border, which itself suffers from an unconscionable lack of staffing and resources.

As of the end of fiscal year 2020³¹ (the last year for which published statistics published are available), there were 16,878 Border Patrol agents stationed at the Southwest Border, compared to 2,019 total at the 8 Northern Border sectors (a figure that has remained almost unchanged since fiscal year 2014, and 243 agents fewer than in fiscal year 2010).³²

Of those 2,019 Border Patrol agents, 188 were stationed at Houlton Sector, 298 at Swanton Sector, 261 at Buffalo Sector, 406 at Detroit Sector, 171 at Grand Forks Sector, 167 at Havre Sector, 254 at Spokane Sector, and 274 at Blaine Sector.

Despite the already meager level of staffing at the Northern Border, when investigators from the Office of the Inspector General (OIG) at the Department of Homeland Security (DHS) visited the Southwest Border’s Rio Grande Valley (RGV) Sector in July 2021,³³ they found 300 agents from the Northern and Coastal Borders there who had been detailed to assist RGV agents.³⁴

²⁰ “Grand Forks Sector North Dakota”. *U.S. Customs and Border Protection* (modified July 22, 2022). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/grand-forks-sector-north-dakota>.

²¹ Id.

²² Id.

²³ “Havre Sector Montana”. *U.S. Customs and Border Protection* (modified July 22, 2022). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/havre-sector-montana/>.

²⁴ Id.

²⁵ “Spokane Sector Washington”. *U.S. Customs and Border Protection* (modified Jan. 19, 2023). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/spokane-sector>.

²⁶ Id.

²⁷ Id.

²⁸ Blaine Sector Washington. *U.S. Customs and Border Protection* (modified Jan. 19, 2023). Source: <https://www.cbp.gov/border-security/along-us-borders/border-patrol-sectors/spokane-sector>.

²⁹ Id.

³⁰ MIROFF, Nick and BLANCO, Adrian. “Trump ramps up border-wall construction ahead of 2020 vote”. *Washington Post* (Feb. 6, 2020). Source: <https://www.washingtonpost.com/graphics/2020/national/immigration/border-wall-progress/>.

³¹ “United States Border Patrol, Sector Profile—Fiscal Year 2020”. *U.S. Customs and Border Protection* (undated). Source: <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Fiscal%20Year%202020%20Sector%20Profile%20%28508%29.pdf>.

³² “Border Patrol Agent Staffing By Fiscal Year.” *U.S. Border Patrol* (undated). Source: <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Fiscal%20Year%20Staffing%20Statistics%20%28FY%201992%20%20FY%202020%29%20%28508%29.pdf>.

³³ “U.S. Border Patrol Faces Challenges Administering Post-Apprehension Outcomes Consistently Across Sectors”, p. 9. *Dep’t of Homeland Sec., Off. of the Inspector Gen.* (Sept. 13, 2022). Source: <https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-68-Sep22.pdf>.

³⁴ Id.

The frequency of agent details from the Northern to the Southwest Border was likely best illustrated by an anecdote told by Rep. Tony Gonzales (R-Tex.), as quoted in recent reporting from Canadian outlet CTV:³⁵

“Customs and Border Protection officials at the Northern Border are often called upon to help support their Mexico-U.S. colleagues, said Rep. Tony Gonzales, whose Texas district includes a large swath of the Southwestern Border.

“Oftentimes, there are more Border Patrol agents from the Northern Border in my sector than there are in their own areas,” Gonzales said, as he described meeting agents during a shift change last Christmas.

“One of the things that I asked was, ‘How many of you all are not from this area?’ Literally, every hand went up, they’re all Northern Border areas,” he said.

“‘And I smile, and I go, ‘Welcome to south Texas. Is this your first time here?’ They go, ‘No, no, Tony, this is our fifth time here.’”

That said, Border Patrol agents in the RGV plainly need—and needed—the help. In fiscal year 2021,³⁶ RGV agents apprehended more than 549,000 illegal entrants, and an additional 468,124 in fiscal year 2022³⁷—more than 1.017 million alien apprehensions in just the last 2 fiscal years.

Those fiscal year 2021 and fiscal year 2022 apprehension numbers were more than 38 percent and 28 percent higher, respectively, than RGV apprehensions in fiscal year (339,135)³⁸—a year in which the Southwest Border had reached such a state of crisis that DHS declared a “border emergency”.³⁹ As then-DHS Secretary Kirstjen Nielsen explained at that time:

“Today I report to the American people that we face a cascading crisis at our Southern Border. The system is in freefall. DHS is doing everything possible to respond to a growing humanitarian catastrophe while also securing our borders, but we have reached peak capacity and are now forced to pull from other missions to respond to the emergency.”⁴⁰

The reason why Southwest Border apprehensions have reached all-time records under the Biden administration is clear from a March 8 opinion in *Florida v. U.S.*,⁴¹ a challenge by the State of Florida to the administration’s border release policies.

As Judge T. Kent Wetherell II of the U.S. District Court for the Northern District of Florida explained:

“[T]he evidence establishes that [the Federal Government has] effectively turned the Southwest Border into a meaningless line in the sand and little more than a speedbump for aliens flooding into the country by prioritizing ‘alternatives to detention’ over actual detention and by releasing more than a million aliens into the country—on ‘parole’ or pursuant to the exercise of ‘prosecutorial discretion’ under a wholly inapplicable statute—without even initiating removal proceedings.”⁴²

While it may be understandable that additional, experienced agents were needed to assist their overwhelmed colleagues at the Southwest Border, it was and is irresponsible to leave an already under-resourced Northern Border vulnerable to national security and humanitarian risks to do so.

Before any administration changes effective policies implemented by a previous administration in a way that could create national security and humanitarian vulnerabilities, it is incumbent on that new administration to ensure that it has sufficient resources to address such vulnerabilities in advance.

There is no question that the border policies implemented by the Trump administration were effective.

³⁵ McCarten, James. “House Republicans aim to make Canada-U.S. border part of national security debate”. *CTVNews* (Feb. 28, 2023). Source: <https://www.ctvnews.ca/canada/house-republicans-aim-to-make-canada-u-s-border-part-of-national-security-debate-1.6293453>.

³⁶ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

³⁷ *Id.*

³⁸ “U.S. Border Patrol Nationwide Apprehensions by Citizenship and Sector in fiscal year 2019”. *U.S. Customs and Border Protection* (undated). Source: <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/USBORD?3.PDF>.

³⁹ “Secretary Kirstjen Nielsen Statement on Border Emergency”. *U.S. Dep’t of Homeland Sec.* (Mar. 29, 2019). Source: <https://www.dhs.gov/news/2019/03/29/secretary-kirstjen-nielsen-statement-border-emergency>.

⁴⁰ *Id.*

⁴¹ *Florida v. U.S.*, ___ F. Supp. 3d ___, No. 3:21-cv-1066-TKW-ZCB (N.D. Fla. Mar. 8, 2023). Source: [http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/\\$file/final+order.pdf](http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/$file/final+order.pdf).

⁴² *Id.* at pp. 4–5.

As his first Border Patrol chief, Rodney Scott, explained in a September 2021 letter⁴³ to Senate leadership, President Biden inherited “what was arguably the most effective border security in our Nation’s history”, only to have “[c]ommon sense border security recommendations from experienced career professionals . . . ignored and stymied by inexperienced political employees”.

It is also patently obvious that President Biden knew a rapid shift away from those Trump-era border policies risked chaos and disaster.

As the *Washington Post* reported on December 22, 2020,⁴⁴ just over a month before Inauguration Day 2021, President-elect Biden vowed to “keep his pledge to roll back the Trump administration’s restrictive asylum policies” but would do so “at a slower pace than he initially promised, to avoid winding up with ‘2 million people on our border’”.

As President, however, Biden backtracked on that pledge, quickly reversing⁴⁵ Trump’s successful border policies without “setting up” any promised “guardrails” that would have avoided a “crisis”⁴⁶ at the Southwest Border.

Consequently, in fiscal year 2022, Border Patrol agents at the Southwest Border apprehended more than 2.2 million⁴⁷ illegal migrants, not counting more than 599,000⁴⁸ other illegal entrants who successfully evaded apprehension to make their way into the United States, identified in statute⁴⁹ as “got aways”.

CBP NORTHERN BORDER ENCOUNTERS

DHS leadership, however, was likely “robbing Peter to pay Paul” when it stripped agents from the Northern Border and sent them south, as CBP encounters at the Canadian border have subsequently—and inevitably—surged.

In fiscal year 2022, CBP encountered 109,535 aliens at the Northern Border, four times as many (27,180) as they had the fiscal year before.⁵⁰ Already, in just the first 5 months of fiscal year 2023, CBP has encountered 68,784 aliens⁵¹ at the Northern Border, and at their current pace, CBP agents and officers will record more than 165,000 CBP Northern Border encounters by the end of the fiscal year.

“Encounter” in this context is a term of art, defined as the sum of aliens deemed inadmissible at U.S. ports of entry by CBP officers in the agency’s Office of Field Operations (OFO) plus aliens apprehended by Border Patrol agents after entering the United States illegally at the border between those ports.

Of those CBP Northern Border encounters in fiscal year 2022, 107,297 of them involved aliens deemed inadmissible by CBP officers at the ports.⁵²

Nearly 38 percent of those encounters involved Canadian nationals, likely aliens with criminal convictions that rendered them inadmissible to the United States,⁵³

⁴³ Letter from Rodney Scott to Sens. Charles Schumer, Mitch McConnell, Gary Peters, and Rob Portman (Sept. 11, 2021). Source: <https://justthenews.com/sites/default/files/2021-09/Honorable%20Rob%20Portman%20US%20Senate%20Security%20Concerns%20-percent20-Rodney%20Scott.pdf>.

⁴⁴ MIROFF, Nick and SACCHETTI, Maria. “Biden says he’ll reverse Trump immigration policies but wants ‘guardrails’ first”. *Washington Post* (Dec. 22, 2020). Source: https://www.washingtonpost.com/national/biden-immigration-policy-changes/2020/12/22/2eb9ef92-4400-11eb-8deb-b948d0931c16_story.html.

⁴⁵ LAW, Rob. “Biden’s Executive Actions: President Unilaterally Changes Immigration Policy”. Center for Immigration Studies (Mar. 15, 2021). Source: <https://cis.org/Report/Bidens-Executive-Actions-President-Unilaterally-Changes-Immigration-Policy>.

⁴⁶ MIROFF, Nick and SACCHETTI, Maria. “Biden says he’ll reverse Trump immigration policies but wants ‘guardrails’ first”. *Washington Post* (Dec. 22, 2020). Source: https://www.washingtonpost.com/national/biden-immigration-policy-changes/2020/12/22/2eb9ef92-4400-11eb-8deb-b948d0931c16_story.html.

⁴⁷ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023) (2,206,436 Border Patrol Southwest border apprehensions in fiscal year 2022). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁴⁸ MELUGIN, Bill and BLITZER, Ronn. “Border officials count 599,000 ‘gotaway’ migrants in Fiscal Year 2022: source”. *Fox News* (Oct. 2, 2022). Source: <https://www.foxnews.com/politics/border-officials-count-599000-gotaway-migrants-fiscal-year-2022-source>.

⁴⁹ 6 U.S.C. § 223(a)(3). (“Border Metrics”. “Got away. The term ‘got away’ means an unlawful border crosser who (A) is directly or indirectly observed making an unlawful entry into the United States; (B) is not apprehended; and (C) is not a turn back.”). Source: [https://uscode.house.gov/view.xhtml?req=\(title:6%20section:223%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:6%20section:223%20edition:prelim)).

⁵⁰ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁵¹ Id.

⁵² Id.

⁵³ See section 212(a)(2) of the Immigration and Nationality Act (2023) (“Criminal and related grounds”). Source: <https://uscode.house.gov/view.xhtml?edition=prelim&num=0&req=granuleid%3AUSCprelim-title8-section1182>.

or visitors without proper documents that would allow them to be admitted⁵⁴ to the United States. Whatever the reason, however, there was a 152 percent increase in fiscal year 2022 in the number of Canadian nationals deemed inadmissible at the Northern Border ports compared to fiscal year 2021.⁵⁵

Of somewhat greater concern is the fact that the number of “other than Canadian” nationals deemed inadmissible at the Northern Border ports jumped six-fold between fiscal year 2021 and fiscal year 2022—from around 10,250 to nearly 67,000.

Almost 16 percent (17,094)⁵⁶ of the aliens deemed inadmissible at the Northern Border ports in fiscal year 2022 were nationals of India, around 10 percent of them (6,686)⁵⁷ were from China, 1,938⁵⁸ came from Colombia, 1,521 were from the Philippines, and 1,314 were from Ukraine. Most interesting were the 31,941 aliens deemed inadmissible at the Southwest Border who came from “other” countries around the world, that is countries that CBP does not include in its specific list of the top 21 “migrant-sending” countries.⁵⁹

Northern sector Border Patrol apprehensions increased 144 percent between fiscal year 2021 (916) and fiscal year 2022 (2,238),⁶⁰ and already in the first 5 reporting months of fiscal year 2023, agents at the Northern Border have exceeded last fiscal year’s total, apprehending 2,856 illegal entrants through the end of February, and on pace for more than 6,850 apprehensions this fiscal year.

A handful (44) of the aliens apprehended in fiscal year 2023 have been Canadians, almost certainly aliens who were otherwise inadmissible through the legal admissions process.⁶¹

Meanwhile, the number of Haitians apprehended there has jumped from 8 in fiscal year 2022 to 161,⁶² the number of Venezuelans from 5 to 76,⁶³ and Border Patrol apprehensions of nationals of “other” countries at the Northern Border has already reached 77 percent of last year’s total (from 204 in fiscal year 2022 to 157 in the first 5 months of fiscal year 2023).⁶⁴

Notably, Mexican apprehensions are almost 82 percent higher in fiscal year 2023 (1,604) than they were in fiscal year 2022 (882), and Border Patrol is on pace to apprehend nearly 3,850 Mexican nationals at the Northern Border this fiscal year.⁶⁵ I will explain those Mexican apprehensions, below.

These projections are likely low, however, because the 628⁶⁶ Border Patrol apprehensions in February (the shortest month of the year) are the highest monthly total at the Northern Border in the last 4 fiscal years, more than 4 times higher than last February (122),⁶⁷ but more importantly, nearly twice as high as February 2020 (256),⁶⁸ the last month before the Covid-19 pandemic was declared.⁶⁹

SWANTON SECTOR

As significant as these increases are, they only tell part of the story, because one Northern Border sector—Swanton—has borne the brunt of this surge in migrant entries.

Of the 628 illegal migrants apprehended at the Northern Border in February, 418⁷⁰—66.5 percent—were caught in the Swanton Sector. What’s more, 67.6 percent (1,932)⁷¹ of the 2,856 migrants apprehended at the Northern Border thus far in fiscal year 2023 were stopped by agents there, up from 47.6 percent (1,065)⁷² of the 2,238 total illegal entrant apprehensions at the Northern Border in fiscal year 2022.

⁵⁴ Id. at para. (a)(7) (“Documentation requirements”).

⁵⁵ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ See fns. 53 and 54.

⁶² “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ See fn. 80.

⁷⁰ Id.

⁷¹ Id.

⁷² Id.

Why would the agents at a 295-mile portion of a 5,525-mile border in Swanton Sector be seeing such a surge in illegal migration? Proximity likely has a lot to do with it.

It is about 50 miles⁷³ from the biggest nearby Canadian city—Montreal, Québec (population 1,785,042)⁷⁴—to the U.S. border just north of the town of Swanton, Vt., and 40 miles⁷⁵ to the U.S. border north of Champlain, N.Y. (again, also in Swanton sector). Nearly all (1,383)⁷⁶ of those Swanton sector apprehensions in fiscal year 2023 have occurred on the New York side.

The city's Montreal-Trudeau International Airport (YUL) is the fourth-busiest airport in Canada in terms of passenger volume,⁷⁷ serving 5.2 million passengers per year. A Google search⁷⁸ shows that there are three nonstop flights from Mexico City to YUL daily (two on Aeromexico and one on Air Canada), and numerous cheaper flights with connections outside the United States as well.

Most of the migrants apprehended in Swanton Sector (1,185 out of 1,932 or 61 percent)⁷⁹ in fiscal year 2023 have been Mexican nationals. There are various, logical reasons why Mexican nationals would choose to fly to YUL and cross the Northern Border instead of simply crossing from Mexico into the United States.

Since the Centers for Disease Control and Prevention (CDC) issued its first order⁸⁰ under Title 42 of the U.S. Code⁸¹ directing the expulsion of illegal migrants at U.S. land borders in response to the COVID-19 pandemic in March 2020, 89.7 percent⁸² of Mexican nationals apprehended by Border Patrol at the Southwest Border have been expelled under Title 42. Many of the rest have likely been allowed to “voluntarily depart” back to Mexico in lieu of removal.

By contrast, just 8.25 percent⁸³ of the Mexican nationals apprehended at the Northern Border in that same period have been expelled under Title 42. That's likely because, unlike Mexico, Canada is under no obligation to accept the return of Mexican nationals who entered the United States from its territory who the U.S. Government is trying to expel.

It was not surprising, then, that CBP announced⁸⁴ in early March that it would be detailing 25 extra agents—including agents from the Southwest Border—to Swanton Sector to help deal with the flow. According to a CBP spokesman quoted by NBC News:

⁷³ ARTHUR, Andrew. “Migrant Surge—At the Northern Border”. *Center for Immigration Studies* (Feb. 23, 2023). Source: <https://cis.org/Arthur/Migrant-Surge-Northern-Border>.

⁷⁴ “Montreal Population 2023”. *World Population Review* (2023). Source: <https://worldpopulationreview.com/canadian-cities/montreal-population>.

⁷⁵ ARTHUR, Andrew. “Migrant Surge—At the Northern Border”. *Center for Immigration Studies* (Feb. 23, 2023). Source: <https://cis.org/Arthur/Migrant-Surge-Northern-Border>.

⁷⁶ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁷⁷ WONG, Daniel. “Top 5: A Look At Canada's Busiest Airports By Passenger Traffic”. *Simple Flying* (Jun. 13, 2022). Source: <https://simpleflying.com/canada-busiest-passenger-airports/#edmonton-international-airport-yeg-2-8-million-passengers>.

⁷⁸ Source: <https://www.google.com/travel/flights/search?fs=CbWQAhojagwIAhIIL20-vMDRzcWoSCjIwMjMtMDQtMDdyBugBEgNZVUwaI2oHCAESA1VTBIKMjAyMy0wNC0-xMXIMCAISCC9tLzA0c3FqcAGCAQslAUABSAGYAQE&tfu=EgYIARABGAA&hl=en&gl=us&curr=USD>.

⁷⁹ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁸⁰ “Order Suspending the Introduction of Certain Persons from Countries Where a Communicable Disease Exists”. *U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention* (Mar. 20, 2020). Source: https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf. Accessed on 27 Feb. 2023.

⁸¹ See id.; 42 U.S.C. § 265 (2023) (“Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.”). Source: [https://uscode.house.gov/view.xhtml?req=\(title:42%20section:265%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:42%20section:265%20edition:prelim)).

⁸² “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

⁸³ Id.

⁸⁴ AINSLEY, Julia and MARTINEZ, Didi. “U.S. transfers Border Patrol agents to northern border as migrant crossings from Canada rise”. *NBC News* (Mar. 6, 2023). Source: <https://www.nbcnews.com/politics/immigration/us-transfers-border-patrol-agents-canada-border-migrant-crossings-rcna73623>.

“While the apprehension numbers are small compared to other areas with irregular migration flows, Swanton Sector apprehensions constitute a large change in this area . . . The deployed team will serve as a force multiplier in the region and assist to deter and disrupt human smuggling activities being conducted in the Swanton Sector area of responsibility.”⁸⁵

THE COSTS OF VISA-FREE TRAVEL FROM MEXICO TO CANADA

The price of a plane ticket aside, it is not that difficult for Mexican nationals to get into Canada.

The Canadian government has vacillated over the years on the issue of whether Mexican nationals should be permitted to enter to the country without first obtaining a visa, as *The Atlantic* explained in 2016:

“From 2005 to 2008, asylum claims in Canada had tripled, and many of those were from Mexican citizens. In 2009, the conservative Canadian government, headed by then-Prime Minister Stephen Harper, imposed the visa restrictions to cut down on asylum applications. Last year, [now-Prime Minister Justin] Trudeau ran on a platform to repair the country’s relationship with its North American partners, which included a promise to rid the visa requirement for Mexico.”⁸⁶

Trudeau made good on that promise (in exchange for, among other concessions, an agreement by the Mexican government to allow the sale of Canadian beef there for the first time since the outbreak of mad-cow disease in Canada in 2003),⁸⁷ and a visa exemption for Mexican nationals traveling to Canada has been in place since December 1, 2016 (perhaps coincidentally, 24 days after Donald Trump was elected President).⁸⁸

Many of the costs and risks associated with that shift in visa policy are detailed on the website of Public Safety Canada:⁸⁹

“When the visa requirement was lifted, funding in the amount of \$212 million over 5 years and \$47 million ongoing was sought across all partners to manage the immigration-related risks. Ongoing pressures due to irregular migration associated with the Mexico visa exemption contributed to the Government’s decision to allocate additional funding for Canada’s asylum system in Budget 2019.

“Trends and risks associated with the visa exemption for Mexican nationals are expected to continue. Likewise, funding pressures on the [Canada Border Services Agency, ‘CBSA’⁹⁰] are expected to grow as the Agency manages the risks associated with these migration trends.

“The CBSA will continue to work with partners to monitor and to respond to those risks to ensure the integrity of Canada’s immigration system and the safety and security of Canadians.

“Of note, at the time of the visa exemption, the Government set a threshold for asylum claims which would trigger a reconsideration of the visa exemption [Redacted in original]. However, this number should not be made public.”⁹¹

Apparently, the Canadian government’s (still redacted) threshold for Mexican asylum claims has not yet been met, though 11,000 individuals who traveled on Mexican passports have applied for asylum since the visa exemption was implemented

⁸⁵ Id.

⁸⁶ PHIPPEN, J. Weston. “The Opening of Visa-Free Travel From Mexico to Canada”. *The Atlantic* (Jun. 28, 2016). Source: <https://www.theatlantic.com/news/archive/2016/06/canada-mexico-visa/489203/>.

⁸⁷ Id.

⁸⁸ “Mexico Visa Exemption”. *Public Safety Canada* (modified Oct. 15, 2020). Source: <https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20200621/037/index-en.aspx>.

⁸⁹ See “About Public Safety Canada”. *Public Safety Canada* (modified Aug. 10, 2022) (“Public Safety Canada was created in 2003 to ensure coordination across all Federal departments and agencies responsible for national security and the safety of Canadians. Our mandate is to keep Canadians safe from a range of risks such as natural disasters, crime, and terrorism. Our mission is to build a safe and resilient Canada. Our vision is to, through outstanding leadership, achieve a safe and secure Canada and strong and resilient communities.”). Source: <https://www.publicsafety.gc.ca/cnt/bt/index-en.aspx>.

⁹⁰ See “Canada Border Services Agency”. *Government of Canada* (modified Mar. 21, 2023) (“The Canada Border Services Agency (CBSA) facilitates the flow of legitimate travellers and trade. The agency also enforces more than 100 acts and regulations that keep our country and Canadians safe.”). Source: <https://www.cbsa-asfc.gc.ca/menu-eng.html>.

⁹¹ Id.

(Mexico is the second-leading source for asylum claims in Canada after Haiti⁹²), but visa-free travel from Mexico to Canada has not been without costs to the Federal Government in Ottawa or risks to that country and the United States.

My colleague, Todd Bensman, recently detailed some of those costs and risks, explaining that the renewal of visa-free travel from Mexico to Canada brought about a result that “was both predictable and predicted at the time”;⁹³

“By mid-July 2017, after Trudeau restored the visa waiver to Mexicans, leaked [CBSA] intelligence reports said Mexican cartel operatives—‘drug smugglers, human smugglers, recruiters, money launders and foot soldiers’—were turning up in greater numbers than ever before. The cartels began facilitating the human smuggling business of other Mexicans south over the America’s Northern Border, just as they did all along the Southern Border.

“Global News, which published the intelligence reports in July 2017, quoted them as saying Mexican crime groups such as the ultra-violent Sinaloa cartel had turned up in Canada and would ‘facilitate travel to Canada by Mexicans with criminal records’.

“Besides the Sinaloa Cartel, Mexican entrants were identified as belonging to La Familia Michoacana, Jalisco New Generation, and Los Zetas cartels.

“For instance, whereas the reports said 37 Mexicans linked or possibly linked to organized criminal groups had entered between 2012 and 2015, 65 involved in ‘serious crimes’ were identified midway through just 2017, compared to 28 in 2015. Another 15 Mexicans cited for national security problems were caught in the first 6 months of 2017, more than the two previous years combined.”⁹⁴

In that vein, the *Toronto Sun* reported in May 2019:

“Hundreds of criminals connected to the illegal drug trade are freely plying their trades as importers, go-betweens and hitmen in Canada—according to Quebec news outlet *TVA Nouvelles*—largely because Prime Minister Justin Trudeau’s Liberal government dropped the visa requirement for Mexican travelers.”⁹⁵

Four hundred such criminals according to that reporting, to be exact. That article and similar ones prompted Public Safety Canada to craft a response.⁹⁶

In its response, Public Safety Canada asserted that after checking its databases, CBSA had “determined that the number of inadmissibility cases for all types of criminality for Mexican foreign nationals during this period referenced by the media was” only “238”, 27 of whom were “reported inadmissible due to links to known organized criminality”.⁹⁷

Twenty-one of those 27 were gang members, three were members of cartels, and three others “were involved in human smuggling organizations”.⁹⁸ An additional 154 individuals “were reported as inadmissible due to serious criminality which includes convictions for the following crimes: sexual assault, aggravated assault, drug trafficking, child pornography, rape of a child, manslaughter, drug trafficking”.⁹⁹

⁹² “Claims by Country of Alleged Persecution—2022”. *Immigration and Refugee Board of Canada* (modified Mar. 1, 2023). Source: <https://www.irbcisr.gc.ca/en/statistics/protection/Pages/RPDStat2022.aspx>.

⁹³ BENSMAN, Todd. “The Canadian Policy Behind the Surge of Illegals—and Mexican Cartel Operatives—at the Northern Border”. *Center for Immigration Studies* (Mar. 22, 2023). Source: <https://cis.org/Bensman/Canadian-Policy-Behind-Surge-Illegals-and-Mexican-Cartel-Operatives-Northern-Border>.

⁹⁴ BENSMAN, Todd. “The Canadian Policy Behind the Surge of Illegals—and Mexican Cartel Operatives—at the Northern Border”. *Center for Immigration Studies* (Mar. 22, 2023). Source: <https://cis.org/Bensman/Canadian-Policy-Behind-Surge-Illegals-and-Mexican-Cartel-Operatives-Northern-Border>.

⁹⁵ GORDON, Graeme. “100’s of drug cartel members have entered Canada since Liberals waived Mexican visa: Report”. *Toronto Sun* (May 24, 2019). Source: <https://torontosun.com/news/crime/100s-of-drug-cartel-members-have-entered-canada-since-liberals-waived-mexican-visa-report>.

⁹⁶ “Mexican Drug Cartels.” *Public Safety Canada* (modified Sep. 10, 2020). Source: <https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20200621/fp001/index-en.aspx/>

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

THE MOVEMENT OF DRUGS ACROSS THE NORTHERN BORDER

Which brings me to the movement of drugs across the Northern Border. As the White House's Office of National Drug Control Policy¹⁰⁰ (ONDCP) has explained:

"Transnational Criminal Organizations (TCOs) operating on both sides of the United States Canada border (Northern Border) often exploit the international boundary's vulnerabilities for illegal activities, at times in conjunction with outlaw motorcycle gangs. They smuggle illegal drugs as well as both weapons and the illicit proceeds from drug sales between the two countries. The predominate drugs trafficked across the Northern Border are cocaine, which is smuggled into Canada, and MDMA (ecstasy), which is smuggled into the United States. Though marijuana, heroin, and illicitly manufactured fentanyl are also trafficked across the Northern Border, their volume is substantially less than that which is trafficked across the Southwest Border.

... "The TCOs occasionally exploit the mountain valleys in Washington and Idaho and the deep ravines in Montana, while the waterways connecting and bordering the United States and Canada create a conducive environment to move contraband across the international border. Quickly traveling across the international border and making landfall on the opposite side, individuals and TCOs can take advantage of the narrow width of many river areas along the border to escape apprehension when detected by United States law enforcement authorities. In the winter months, snowmobiles and vehicles are used to transport contraband over frozen rivers and lakes. Similarly, apprehending maritime smugglers is challenging in the Pacific Northwest, due to a high number of short smuggling routes across the Strait of Juan de Fuca, and the high volume of legitimate maritime traffic between the United States and Canada."

According to the U.S. Drug Enforcement Administration (DEA),¹⁰¹ the supply of MDMA/ecstasy in the U.S. market is controlled by Asian TCOs in this country, which collaborate with Asian TCOs in Canada. It continues: "MDMA, in both tablet and powder form, is typically either imported from China to Canada or manufactured in clandestine laboratories in Canada, then smuggled across the Northern Border into the United States."¹⁰²

The DEA explains that Indian reservations¹⁰³ on U.S. borders are commonly exploited by cross-border drug smugglers, and in the particular case of the Northern Border:

"TCOs [] smuggle large amounts of illicit drugs into the United States through reservations that border Canada, especially the St. Regis Mohawk Reservation in New York, commonly referred to as the Mohawk Nation at Akwesasne. TCOs smuggle marijuana and thousands of MDMA tablets into the United States and multi-kilogram quantities of cocaine into Canada through the reservation."¹⁰⁴

The police force for the Mohawk Council of Akwesasne (MCA), which has responsibility for law-enforcement on the Canadian side of the Akwesasne Mohawk territory, recently received a C\$6 million grant¹⁰⁵ from the Québec provincial government to fight gun smuggling across the St. Lawrence River.

In February¹⁰⁶ the MCA issued a notice about the increase in illegal entries, reminding residents that "human smuggling is a crime and poses serious concerns for not only the individual(s) committing the act but the entire community of Akwesasne".

All that illicit activity has had a negative impact on the lives of those living in the reservations:

"The widespread availability and abuse of drugs in Indian Country, coupled with drug trafficking groups operating in Indian Country, contribute to high rates of

¹⁰⁰ "National Drug Control Strategy, Northern Border Counternarcotics Strategy", p.1. *Office of National Drug Control Policy* (2022). Source: <https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Northern-Border-Counter-Narcotics-2022Strategy.pdf>.

¹⁰¹ "2020 National Drug Threat Assessment", at p.75. *U.S. Dep't of Justice, Drug Enforcement Admin.* (Mar. 2021). Source: https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20Drug%20Threat%20Assessment_WEB.pdf.

¹⁰² *Id.*

¹⁰³ *Id.* at p. 83.

¹⁰⁴ *Id.*

¹⁰⁵ Clarke, Celia. "Akwesasne police force in Canada gets \$6M to stop gun smuggling from the U.S." *NCPR* (Jun 28, 2022). Source: <https://www.northcountrypublicradio.org/news/story/46130/20220628/akwesasne-police-force-in-canada-gets-6m-to-stop-gun-smuggling-from-the-u-s>.

¹⁰⁶ "Recent Increase in Illegal Entries to Community". *Mohawk Council of Akwesasne* (Feb. 17, 2023). Source: <http://www.akwesasne.ca/recent-increase-in-illegal-entries-to-community/>.

crime on reservations. Due to the wide range of violent and property crimes in which traffickers engage, the crime rates on some reservations can be higher than the national averages for similar crimes. [Drug trafficking organizations “DTOs”] engage in these crimes to facilitate their operations, while users generally engage in such crimes to support their drug use.”¹⁰⁷

CBP NORTHERN BORDER DRUG SEIZURES

In the first 5 months of fiscal year 2023,¹⁰⁸ CBP officers at the ports and Border Patrol agents have seized 3,500 pounds of drugs, down significantly from fiscal year 2022,¹⁰⁹ when CBP drug seizures at the Northern Border totaled more than 60,000 pounds, which itself was a decline from drug-seizure totals in fiscal year 2020¹¹⁰ (nearly 85,000 pounds of drugs).

Those totals are not quite as positive as they may appear, as I will explain below. In any event, the largest decline has been in marijuana seizures, which has had a significant effect on the total decline.

In fiscal year 2020,¹¹¹ CBP seized 54,700 pounds of marijuana at the Northern Border, while marijuana seizures increased there in fiscal year 2021¹¹² (to 79,600 pounds).

Northern Border marijuana seizures dropped to 23,200 pounds in fiscal year 2022,¹¹³ and thus far in fiscal year 2023,¹¹⁴ CBP has seized less than a ton (1,900 pounds) of the narcotic.

For years, high-potency Canadian-grown marijuana, and in particular a popular strain known as “BC [British Columbia] bud”, was a popular illicit drug on both sides of the Northern Border. According to a DEA Drug Intelligence Brief from December 2000:¹¹⁵

“Marijuana and other cannabis products are the most widely abused and readily available illicit drugs in Canada. Canadian law enforcement intelligence indicates that marijuana traffickers there increasingly are cultivating cannabis indoors. Such indoor grow operations have become an enormous and lucrative illicit industry, producing a potent form of marijuana that has come to be commonly known as ‘BC Bud.’ Canadian officials estimate that cannabis cultivation in British Columbia is a billion-dollar industry and that traffickers smuggle a significant portion of the Canadian harvest into the United States.

“Canadian growers produce cannabis plants with powerful buds, often using sophisticated hydroponic cultivation techniques. While the term ‘BC Bud’ literally refers to the bud of the female cannabis plant grown in British Columbia, the term has become synonymous in the popular media for high-potency Canadian-grown marijuana. Such marijuana has a THC1 content ranging from 15 percent to as much as 25 percent, far more potent than the naturally grown cannabis plants of the 1970’s, which had a THC content of only 2 percent.”¹¹⁶

While the Canadian Federal Government and provincial governments regularly and rigorously policed marijuana cultivation operations in the early 2000’s,¹¹⁷ the

¹⁰⁷ “2020 National Drug Threat Assessment”, at p. 83. *U.S. Dep’t of Justice, Drug Enforcement Admin.* (Mar. 2021). Source: https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf.

¹⁰⁸ “Drug Seizure Statistics fiscal year 2023”. U.S. Customs and Border Protection (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ “Drug Intelligence Brief, BC Bud: Growth of the Canadian Marijuana Trade”. *U.S. Dep’t of Justice, U.S. Drug Enforcement Agency* (Dec. 2000). Source: https://web.archive.org/web/20080910203741/http://www.hawaii.edu/hivandaids/BC_Bud_Growth_Of_The_Canadian_Marijuana_Trade.pdf.

¹¹⁶ *Id.* at 1–2.

¹¹⁷ See EBNER, David. “Summer boom for B.C. bud means big-time drug busts for RCMP”. *The Globe and Mail* (Oct. 12, 2009) (“In the British Columbia marijuana business, this year’s hot, sunny summer has been hailed as the best-ever for growing pot outdoors. For the RCMP, using helicopters to search vast and densely forested regions, the bumper weed crop has led to the seizure of tens of thousands of marijuana plants. The latest bust, announced Monday by the Kootenay Boundary detachment of the Royal Canadian Mounted Police, had 14,130 plants taken from 88 sites in the southern central region of B.C. around Nelson, with most of the pot grown on Crown land. The police estimated the street value of the drugs at nearly \$80-million, based on the individual sale of 15.5-million joints. The wholesale value was pegged at roughly

Federal Government there has subsequently changed course and passed “The Cannabis Act”, which went into effect in October 2018.¹¹⁸

That act “legalized and strictly regulated the production, distribution, sale, import and export, and possession of cannabis for adults of legal age”, making the country: “[T]he first major industrialized country to provide legal and regulated access to cannabis for non-medical purposes, signalling a shift away from the reliance on prohibitive measures to deter cannabis use, and the adoption of an evidence-informed public health and public safety approach.”¹¹⁹

It’s almost certain that the legalization of marijuana in Canada led to an uptick in the illicit smuggling of the drug into the United States in the years directly following the passage of The Cannabis Act. Drug legalization efforts in several U.S. States,¹²⁰ though, have also likely diminished the demand in the U.S. market for Canadian marijuana, particularly as the potency of locally grown marijuana here has mushroomed.

With respect to the latter point, as one research paper has explained:

“Many people who have voted for legalization thought they were talking about the marijuana of the 1960’s to 1980’s when the THC content was less than 2 percent. However, without any clear guidelines or regulations from government officials, the cannabis industry has taken a page from the tobacco and alcohol industries’ play book and developed strains of marijuana and concentrated marijuana products with much higher concentrations of THC, the psychoactive component that causes addiction. The more potent a drug is, the stronger the possibility of addiction and the more likely the person will continue to purchase and use the product.

“ . . . The primary problem with the current available cannabis in dispensaries in Colorado is that the THC content is not like it used to be. Prior to the 1990’s it was less than 2 percent. In the 1990’s it grew to 4 percent, and between 1995 and 2015 there has been a 212 percent increase in THC content in the marijuana flower. In 2017 the most popular strains found in dispensaries in Colorado had a range of THC content from 17–28 percent such as found in the popular strain named ‘Girl Scout Cookie.’ Sadly these plants producing high levels of THC are incapable of producing much CBD, the protective component of the plant so these strains have minimal CBD. For example the Girl Scout Cookie strain has only 0.09–0.2 percent CBD. [Internal footnotes omitted].”¹²¹

The fiscal year 2022 Northern Border CBP drug seizure statistics were likely also skewed by major seizures that fiscal year (33,400 pounds) of khat. According to the Alcohol and Drug Foundation:

“Khat is a stimulant drug, which means it speeds up the messages between the brain and the body. Chewing khat is part of some social traditions in parts of the Middle East, such as Saudi Arabia and Yemen, and in Eastern Africa, such as Somalia.

“The buds and leaves of the khat plant (*Catha edulis*) are chewed for stimulant and euphoric effects, and traditionally have been used for medicinal purposes as well as recreationally. Khat contains cathinone and cathine, which are the chemicals that produce the stimulant effects.”¹²²

In a July 2022 joint operation, CBP officers and the U.S. Coast Guard seized more than 20,000 pounds of dried khat (estimated street value: \$3.6 million) at the Seattle (Wash.) Maritime Port, which had been shipped from Kenya and marked as “tea”.¹²³

\$25-million.”). Source: <https://www.theglobeandmail.com/news/british-columbia/summer-boom-for-bc-bud-means-big-time-drug-busts-for-rcmp/article1203433/>.

¹¹⁸ “Taking stock of progress: Cannabis legalization and regulation in Canada”. Government of Canada (modified Oct. 26, 2022). Source: <https://www.canada.ca/en/health-canada/programs/engaging-cannabis-legalization-regulation-canada-taking-stock-progress/document.html>.

¹¹⁹ Id.

¹²⁰ “Recent Developments in Marijuana Law”. *Congressional Research Serv.* (updated Dec. 6, 2022). Source: <https://crsreports.congress.gov/product/pdf/LSB/LSB10859>.

¹²¹ STUYT, Elizabeth. “The Problem with the Current High Potency THC Marijuana from the Perspective of an Addiction Psychiatrist”. *Missouri Medicine* (Nov.–Dec. 2018). Source: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6312155/>.

¹²² “What is khat?” *Alcohol and Drug Foundation* (updated Nov. 29, 2022). Source: <https://adf.org.au/drug-facts/khat/>.

¹²³ “CBP, US Coast Guard Seize more than 10 tons of khat”. *U.S. Customs and Border Protection* (July 21, 2022). Source: <https://www.cbp.gov/newsroom/local-media-release/cbp-us-coast-guard-seize-more-10-tons-khat>.

Excluding marijuana and khat, CBP at the Northern Border has seized 1,300 pounds¹²⁴ of drugs this year, running slightly behind last year's seizures of 3,500 pounds.¹²⁵

Again, that is likely not as good news as it may appear, for reasons that, again, I will explain below.

OFO seizures of drugs at the Northern ports of entry are well behind last fiscal year's totals. Through the first 5 months of fiscal year 2023,¹²⁶ CBP officers have seized just 2,000 pounds of drugs, compared to 58,800 pounds in fiscal year 2022,¹²⁷ and 81,400 pounds in fiscal year 2021.¹²⁸

Once more, marijuana and khat seizures lead the decline. OFO Northern Border seizures of marijuana have declined from nearly 77,000 pounds in fiscal year 2021¹²⁹ to 22,400 pounds in fiscal year 2022,¹³⁰ and to 1,500 pounds in fiscal year 2023.¹³¹ Khat seizures have declined from 33,400 pounds last fiscal year¹³² to 293 pounds in fiscal year fiscal year 2023.¹³³

Seizures of other drugs at the Northern Border ports have seen similar declines. Methamphetamine: 546 pounds in fiscal year 2022; 23 pounds in fiscal year 2023.¹³⁴ Cocaine: 1,000 pounds in fiscal year 2022, 2 pounds in fiscal year 2023.¹³⁵ Ketamine: 145 pounds in fiscal year 2022; 18 pounds in fiscal year 2023.¹³⁶ MDMA/ecstasy: 398 pounds in fiscal year 2022; 2 pounds in fiscal year 2023.¹³⁷

Border Patrol seizures of certain drugs, however, are way up at the Northern Border.

Agents have seized 479 pounds of marijuana in the first 5 months of fiscal year 2023, compared to 759 pounds in all of fiscal year 2022.¹³⁸ Agents have also seized 9 pounds of cocaine this fiscal year, equaling total cocaine seizures in fiscal year 2022,¹³⁹ and 45 pounds of MDMA/ecstasy, more than 6 times as much as in fiscal year 2022 (7 pounds).¹⁴⁰

The Border Patrol haul of "other" drugs—that is any controlled substance that is not marijuana, meth, cocaine, fentanyl, ketamine, khat, heroin, or ecstasy—are also up significantly, with 943 pounds seized this fiscal year compared to just 15 in fiscal year 2022.¹⁴¹

CBP does not provide a breakdown of what those other drugs are, however, it is common for illicit chemists to slightly change the composition of synthetic drugs to stay ahead of drug scheduling laws,¹⁴² which may explain those seizures. Alternatively, those seizures may involve "commonly abused prescription drugs"¹⁴³ that are being smuggled into the United States for sale to illicit users.

I will note, however, that Border Patrol seizures of one drug is way down: meth. In fiscal year 2022, agents seized 470 pounds of meth, compared to just 1 pound in fiscal year 2023.¹⁴⁴

¹²⁴"Drug Seizure Statistics fiscal year 2023". *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

¹²⁵*Id.*

¹²⁶*Id.*

¹²⁷*Id.*

¹²⁸*Id.*

¹²⁹*Id.*

¹³⁰*Id.*

¹³¹*Id.*

¹³²*Id.*

¹³³*Id.*

¹³⁴*Id.*

¹³⁵*Id.*

¹³⁶*Id.*

¹³⁷*Id.*

¹³⁸*Id.*

¹³⁹*Id.*

¹⁴⁰*Id.*

¹⁴¹*Id.*

¹⁴²See MUNIZ, Yaniel. "Designer Drugs and the Federal Analog Act". *FIU Law Review* (Mar. 11, 2017) ("Traditionally, the Federal Government has classified drugs, such as marijuana and cocaine, as a controlled substance. Enforcement by prosecutors was relatively easy since the composition of the drug was known. Today, chemists are manufacturing synthetic drugs that have similar effects to controlled substances, but are able to escape prosecution since the synthetic drug, a.k.a. designer drug, has a slightly different chemical composition than its controlled counterpart."). Source: <https://law.fiu.edu/2017/03/11/designer-drugs-Federal-analog-act/>.

¹⁴³See "Commonly Abused Prescription Drugs". *Nat'l Inst. of Health* (revised Oct. 2011). Source: https://nida.nih.gov/sites/default/files/rx_drugs_placemat_508c_10052011.pdf.

¹⁴⁴"Drug Seizure Statistics fiscal year 2023". *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

Given that fact that, as a standing committee of the Canadian House of Commons found in June 2019,¹⁴⁵ meth “on the streets in Canada mainly comes from Mexico through organized crime, with some domestic production depending upon the region”, those earlier loads were likely stopped on their way into Canada and not from the country.

HUMAN AND DRUG SMUGGLING AT THE NORTHERN BORDER

The reason that I believe the recent decline in seizures of certain drugs at Northern Border ports may not be as positive as these statistics may suggest is that there is not always a clear correlation between the quantity of drugs seized at the border and the quantity being shipped by smugglers, particularly sophisticated TCOs and cartels.

According to the special agent in charge at the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) office in Buffalo, N.Y.,¹⁴⁶ “traditional organized crime, Asian organized crime, East Indian organized crime, [and] outlaw motorcycle gangs¹⁴⁷” are involved in the illegal transshipment of drugs across the Northern Border, and as noted, reports have indicated that Mexican cartel members are present in Canada, as well.

It is reasonable to conclude, if not likely, that such organized criminal groups are increasingly exploiting the broad expanse of the Northern Border and overworked Border Patrol agents and local and State police there to move drugs from one side of the U.S.-Canadian boundary to the other between the ports, not through those ports—where the likelihood of apprehension is much higher.

CBP officers at the ports have several advantages compared to Border Patrol agents in the field, and thus are better able to identify and seize drug loads.¹⁴⁸ For example, all traffic—cars, trucks, and pedestrians—must stop for inspection at the ports, while smugglers crossing the border illegally between ports of entry do so to avoid detection and apprehension by agents.¹⁴⁹

CBP officers also have tools like X-ray machines that can unobtrusively examine entire vehicles and drug-sniffing dogs trained to “scent” on contraband that are unavailable to most Border Patrol agents in the field.¹⁵⁰

The increase in Border Patrol seizures of MDMA/ecstasy, marijuana, cocaine, and “other” drugs, coupled with the decline in the seizures of those drugs at the ports, suggests that organized and sophisticated drug traffickers, in fact, have shifted their smuggling operations at the Northern Border away from ports to the largely open expanses between those ports, with cocaine headed north to the Canadian market and other drugs flowing south into the U.S. market.

Sophisticated human smuggling efforts across the Northern Border are also occurring, best exemplified by one particularly horrendous case that ended in tragedy.

On January 19, 2022, Canadian authorities near the U.S. border in Emerson, Manitoba found the bodies of 4 Indian nationals: Jagdish Patel, aged 39; Vaishaliben Patel, his wife, aged 37; the Patels’ daughter, Vihangi, aged 11-year-old; and their son, Dharmik, who was 3 years old.¹⁵¹ They had frozen to death attempting to cross illegally into the United States.

The family had come from Dingucha, a village in the Indian State of Gujarat, and entered Canada at Toronto more than a week prior to their deaths, on visitor

¹⁴⁵ “Impacts of Methamphetamine Abuse in Canada”, at p. 18. *House of Commons, Standing Committee on Health* (Jun. 2019). Source: <https://www.ourcommons.ca/Content/Committee/421/HESA/Reports/RP10533589/hesarp26/hesarp26-e.pdf>.

¹⁴⁶ BARR, Luke. “Drug seizures along Canadian border up 1,000%, CBP says”. *ABC News* (Sep. 16, 2020). Source: <https://abcnews.go.com/Politics/drug-seizures-canadian-border-1000-cbp/story?id=73049477>.

¹⁴⁷ See LEJTENYI, Patrick. “How the Hells Angels Conquered Canada”. *Vice* (Oct. 27, 2016) (“The Hells Angels’ path to eventually dominating the Canadian crime scene was a bloody one, but also one that was carefully thought out and executed. The biker gang has maintained that dominance through a savvy combination of diplomacy, business sense, marketing, and bloodshed.”). Source: <https://www.vice.com/en/article/bn3vnq/how-the-hells-angels-conquered-canada>.

¹⁴⁸ ARTHUR, Andrew. “Border Patrol Keeps Finding the Fentanyl that Supposedly Only Comes Through the Ports”. *Center for Immigration Studies* (Oct. 28, 2022). Source: <https://cis.org/Arthur/Border-Patrol-Keeps-Finding-Fentanyl-Supposedly-Only-Comes-Through-Ports>.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ HOBSON, Brittany. “One year after death of Indian migrants at border, U.S. still sees illegal crossings”. *National Post* (Jan 19, 2023). Source: <https://nationalpost.com/news/one-year-after-death-of-indian-migrants-at-border-u-s-still-sees-illegal-crossings>.

visas.¹⁵² From there, they traveled west, to Manitoba, arriving in the border town of Emerson sometime around January 18.¹⁵³

They and other would-be migrants were dropped off near the border to begin the trek into the United States when they became separated from the rest. As the *National Post* reported:

“Investigators believe a human smuggling network was behind the family’s journey to Canada from a village in the State of Gujarat in western India, as well as the border-crossing attempt.

“ . . . Border patrol agents stopped a van with a driver and two Indian nationals just south of the border . . . Agents later spotted 5 others from India walking in the snow. They told officers that they had been walking for more than 11 hours in the cold and that 4 others had become separated from the group overnight.”¹⁵⁴

Border Patrol agents thereafter coordinated with officers from the Royal Canadian Mounted Police (RCMP), and RCMP officers found the bodies of the Patel family about 3 hours later.¹⁵⁵ It was around 30 degrees below zero in the area that night.

Steve Shand, a 47-year-old U.S. citizen from Florida, has been charged in Federal court in Minnesota with human smuggling in connection with the case,¹⁵⁶ and an investigation into the incident is also on-going in India.¹⁵⁷ As the *Times of India* reports: “Dingucha village has several agents who facilitate the illegal journey to the US.”

A similar but more recent case involves Haitian national Fritznel Richard, who died of hypothermia south of Montreal in early January during an attempted illegal entry into the United States.¹⁵⁸

Richard had originally left Haiti and traveled with his wife and son to Brazil, and then made a week-long perilous journey up through the infamous Darién Gap and, apparently, into the United States.¹⁵⁹

As CBC News reported: “Richard had heard Canada was more welcoming for Haitians, that there were less chances of being deported to Haiti, that it would be easier to obtain residency as an asylum seeker than in the U.S.”, and so the family kept traveling north, settling in Montreal.¹⁶⁰

Their Canadian work permits were delayed, and government aid did not provide sufficient sustenance for the family, and so Richard’s wife and son returned to the United States in October with the assistance of a smuggler, ending up in Florida.¹⁶¹

Missing his family, and with his asylum case stalled, Richard hired the same smuggler a few months later “to take him to the border near Roxham Road, the popular irregular crossing point between New York State and Quebec’s Monterégie region south of Montreal, where he”, his wife, and son had “first made their way into Canada”.¹⁶²

Richard apparently attempted to reschedule the trip in the face of unusually inclement weather, but the smuggler refused. As his wife told CBC News: “This is what this person does . . . It’s a job for them.”¹⁶³

The predatory nature of smugglers is a common refrain on both the Southwestern and Northern Borders, and world-wide. As Anthony Good, then-Border Patrol sector chief in Grand Forks, explained in February:

¹⁵² HENDRICH, Holly and GAGDEKAR, Roxy. “Family who died in freezing cold by US-Canada border identified”. *BBC News* (Jan. 28, 2022). Source: <https://www.bbc.com/news/world-us-canada-60162500>.

¹⁵³ *Id.*

¹⁵⁴ HOBSON, Brittany. “One year after death of Indian migrants at border, U.S. still sees illegal crossings”. *National Post* (Jan 19, 2023). Source: <https://nationalpost.com/news/one-year-after-death-of-indian-migrants-at-border-u-s-still-sees-illegal-crossings>.

¹⁵⁵ *Id.*

¹⁵⁶ “Press Release, Florida Man Arrested at U.S./Canada Border, Charged with Human Smuggling”. *U.S. Attorney’s Office, District of Minnesota* (Jan. 20, 2022). Source: <https://www.justice.gov/usao-mn/pr/florida-man-arrested-uscanada-border-charged-human-smuggling-0>.

¹⁵⁷ CHAUHAN, Ashish. “Another family member of Jagdish Patel from Gujarat under scanner”. *Times of India* (Feb. 27, 2023). Source: <https://timesofindia.indiatimes.com/city/ahmedabad/another-family-member-of-jagdish-patel-under-scanner/articleshow/98261358.cms>.

¹⁵⁸ STEVENSON, Verity. “Fritznel Richard, who died near Roxham Road border crossing, made final phone call to his wife”. *CBC News* (Jan. 11, 2023). Source: <https://www.cbc.ca/news/canada/montreal/fritznel-richard-wife-phone-call-1.6708299>.

¹⁵⁹ STEVENSON, Verity. “The life and death of Fritznel Richard: What happens after Roxham Road”. *CBC News* (Feb. 17, 2023). Source: <https://www.cbc.ca/news/canada/montreal/the-life-of-fritznel-richard-1.6750509>.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

“You know, the smugglers do not care about their lives at all. You know, all they care about is the money. Somebody that might smuggle human beings who are also on their way back, might smuggle guns into Canada or smuggle drugs with these people in the United States . . . ”.¹⁶⁴

U.S.-CANADIAN BORDER RELATIONS

The boundary between the United States and Canada is often described as the “world’s longest undefended border”,¹⁶⁵ and with good reason, particularly as relates to immigration. As the Canadian government notes:

“It is estimated that around 400,000 people crossed the Canada-United States border every day (pre-pandemic) and that there are about 800,000 Canadian citizens living in the United States. There are many Canadian First Nations residents and U.S. Native American Tribes whose culture spans the border.”¹⁶⁶

Under the U.S.-Canadian December 2011 bilateral “Beyond the Border Plan”, the two countries share biographic and biometric information for visa applicants as well as “no-fly” lists, and engage in other mutually advantageous immigration-related endeavors.¹⁶⁷

Most significantly, however, Canada is the only country with which the United States currently shares an agreement for dealing with would-be asylum applicants. That “Canada-U.S. Safe Third Country Agreement”¹⁶⁸ has been in effect since late December 2004.

Pursuant to that agreement, aliens present in the United States or Canada must first apply for asylum in that country.¹⁶⁹ U.S. nationals can still seek asylum in Canada, of course, and vice-versa.

Notably, though, as the Congressional Research Service¹⁷⁰ explains, the agreement applies only to aliens “who present themselves at ports of entry on the U.S.-Canada land border and to aliens in transit during removal from the U.S. or Canada” and does not apply to illegal entrants to either country. That was the rule up until recently, as least, as I will explain below.

One other notable exception applies to aliens with family ties in either the United States or Canada.¹⁷¹

If an asylum applicant at a U.S. port of entry who hasn’t applied for protection in Canada has a spouse, son, daughter, parent, legal guardian, sibling, grandparent, grandchild, aunt, uncle, niece, or nephew in the United States with asylee, refugee, or other legal status, or who is applying for asylum, that alien can seek an exception under the agreement here.¹⁷²

The third-country agreement traditionally has favored Canada, which has rather stringent immigration laws (but eagerly accepts immigrants who follow its rules) and natural advantages over the United States in enforcing those laws. Or, as the Council on Foreign Relations puts it:

“Canada’s geography—bordered by three oceans and the United States, which is itself a magnet for immigrants—has helped Ottawa limit flows of undocumented

¹⁶⁴ LAURITSEN, John. “Illegal crossings increasing at U.S.-Canada border despite dangerous, deadly conditions”. *CBS News Minnesota* (Feb. 16, 2023). Source: <https://www.cbsnews.com/minnesota/news/illegal-crossings-increasing-at-u-s-canada-border/>.

¹⁶⁵ “World’s Longest Undefended Border”. *Parli. The Dictionary of Canadian Politics* (undated). Source: <https://parli.ca/worlds-longest-undefended-border/>.

¹⁶⁶ “Canada-United States relations”. *Government of Canada* (updated Mar. 22, 2023). Source: <https://www.international.gc.ca/country-pays/us-eu/relations.aspx?lang=eng>.

¹⁶⁷ “Beyond the Border U.S. Fact Sheet”. *U.S. Dep’t of Homeland Security* (Jan. 2017). Source: <https://www.dhs.gov/sites/default/files/publications/2017%2019%20BTB%20Fact%20Sheet.pdf>.

¹⁶⁸ “Canada-U.S. Safe Third Country Agreement”. *Government of Canada* (modified Dec. 8, 2022). Source: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html>.

¹⁶⁹ *Id.*

¹⁷⁰ “Safe Third Country Agreements with Northern Triangle Countries: Background and Legal Issues”, at p.2. *Congressional Resource Service* (Jan. 30, 2020). Source: <https://crsreports.congress.gov/product/pdf/LSB/LSB10402>.

¹⁷¹ “Canada-U.S. Safe Third Country Agreement”. *Government of Canada* (modified Dec. 8, 2022). Source: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement.html>.

¹⁷² *Id.*

people. Its highly regulated immigration system, including some of the world's strictest visitor-visa requirements, is designed to further curb this phenomenon."¹⁷³

The exception to the third-country agreement for aliens entering Canada illegally has, however, placed strains on the Canadian Federal Government, which of late has seen a surge in asylum claimants since the U.S. Southwest Border crisis began.

One flashpoint has been the Roxham Road crossing, about 30 miles south of Montreal, that Richard was attempting to reach when he died in January.¹⁷⁴

CBC News describes Roxham road as “a well-travelled unofficial border crossing for asylum seekers hoping to enter Canada”, explaining:

“Quebec Premier François Legault recently wrote a letter to Prime Minister Justin Trudeau asking him to close Roxham Road to asylum-seekers. Thousands of them have crossed into Canada from the United States at Roxham in recent years.

“Legault claimed that the influx of people waiting to have their claims heard has put heavy pressure on the province’s public services. In a similar letter published Tuesday in the *Globe and Mail*, Legault asked other provinces to help.

Conservative Leader Pierre Poilievre also has called on Trudeau to close Roxham Road. Trudeau himself said Wednesday the government is working on shutting down the irregular border crossing. But it’s not at all clear how Ottawa could do that.

Almost 40,000 people used the “unofficial” Roxham Road border crossing to enter Canada last year.¹⁷⁵

The Trudeau government appears to be on the verge of “shutting down the irregular border crossings” at Roxham Road and elsewhere, however, to its advantage and the likely detriment of the United States.

On March 23,¹⁷⁶ the *New York Times* reported that the two countries had reached a deal, in advance of President Biden’s first visit to Ottawa, amending the Canada-U.S. Safe Third Country Agreement to apply to migrants entering either country from the other illegally as well as legally.

As the Council on Foreign Relations explained, it is extremely difficult for migrants to enter Canada illegally from any other country other than the United States, and thus all the benefits in this agreement will flow to the Canadian side of the border. While irregular crossings to Canada had provided some small measure of relief to the overwhelmed U.S. asylum system, that relief is now, assuming the *Times*’ reporting is correct, gone.

To give you an idea how effectively its geographic advantages have protected Canada from illegal entrants to this point, or how different illegal immigration has been as a problem in that nation compared to in the United States, consider the following, from *The Guardian* this month:

“‘Asylum seekers on our borders is not something that Canada typically deals with,’ said Abdulla Daoud, executive director of the Refugee Centre in Montreal. ‘This is in many ways a new issue. And while there’s been an uptick, there’s no denying that, we’ve seen that Canada’s immigration infrastructure can handle an increase in population—but the asylum system wasn’t ever built to accommodate this sort of issue.’”¹⁷⁷

With that in mind, and to demonstrate how overwhelmed the U.S. asylum system is compared to the asylum system in Canada, as of the end of December 2022, the

¹⁷³ CHEATHAM, Amelia and ROY, Diana. “What Is Canada’s Immigration Policy?”. *Council on Foreign Relations* (updated Mar. 7, 2023). Source: <https://www.cfr.org/backgrounder/what-canadas-immigration-policy#chapter-title-0-10>.

¹⁷⁴ MAJOR, Darren. “Roxham: The little country road that became a big political headache for the Trudeau government”. *CBC News* (Feb. 25, 2023). Source: <https://www.cbc.ca/news/politics/roxham-road-explainer-1.6756753>.

¹⁷⁵ Cecco, Leyland. “Trudeau-Biden talks to tackle asylum seekers surge at migration hotspot”. *The Guardian* (Mar. 22, 2023). Source: <https://www.theguardian.com/world/2023/mar/22/canada-asylum-seekers-biden-talks-immigration>.

¹⁷⁶ SHEAR, Michael D. and AUSTEN, Ian. “U.S. and Canada Reach an Agreement on Turning Away Asylum Seekers” (Mar. 23, 2023). Source: https://www.nytimes.com/2023/03/23/us/politics/us-canada-asylum-seekers.html?campaign_id=190&emc=edit_ufrn_20230323&instance-id=88494&nl=from-the-times®i_id=80398174&segment_id=128590&te=1&user-id=605a5facbf0fe857251b64502c28f590.

¹⁷⁷ Cecco, Leyland. “Trudeau-Biden talks to tackle asylum seekers surge at migration hotspot”. *The Guardian* (Mar. 22, 2023). Source: <https://www.theguardian.com/world/2023/mar/22/canada-asylum-seekers-biden-talks-immigration>.

Canadian government had a backlog of 70,223 pending asylum claims.¹⁷⁸ By comparison, there were nearly 1.566 million asylum claims pending in the United States at that time¹⁷⁹—22 times as many claims in a country with roughly 8.65 times the population.

In his deal with Biden, Trudeau has, apparently, also “agreed to provide a new, legal refugee program for 15,000 migrants who are fleeing violence, persecution, and economic devastation in South and Central America”, which the *Times* asserts will “lessen[] the pressure of illegal crossings into the United States from Mexico”.¹⁸⁰

There are a lot of “unknowns” involved (including whether those 15,000 migrants would have otherwise illegally entered the United States) but given that more than 30,000 migrants from the Central American countries of El Salvador, Guatemala, Honduras, and Nicaragua were apprehended crossing the Southwest Border illegally in the month of February¹⁸¹ alone, this concession won’t do much to “lessen the pressure” on U.S. borders.

CROSS-BORDER THREATS

The most significant known threat posed by the dearth of law-enforcement resources and staffing at the Northern Border is the flow of illicit drugs into the United States, in much the same way that illegal drug, gun, and migrant smuggling poses a threat to Canada.

The much bigger problem is “unknown” threats, which cannot be anticipated and addressed, such as national security threats posed by terrorists and other hostile actors. Both countries have experienced such national security threats from third-country aliens entering from the other in the not-so-distant past.

Ahmed Ressam

The most notable such threat was posed by Ahmed Ressam, a 32-year-old Algerian national who was apprehended by U.S. Customs officers entering the United States at Port Angeles, Wash., in December 1999.¹⁸²

As the Federal Bureau of Investigation (FBI) later explained, an ensuing search of Ressam’s car “revealed more than 100 pounds of white powder—later determined to be urea sulfate—as well as approximately 8 ounces of a highly volatile nitroglycerine mixture and fusing systems components”, which he intended to use to bomb Los Angeles International Airport (LAX) on the millennium, Dec. 31, 1999.¹⁸³

Ressam had initially traveled from France to Montreal in February 1994, using a photo-substituted French passport.¹⁸⁴ He was stopped at the airport and requested asylum, claiming that he had been tortured by Algerian authorities who had wrongly accused him of terrorist activities.¹⁸⁵

Canadian authorities released him pending a hearing on his claim, and he lived for 4 years in Montreal. The apartment building where Ressam took up residence there was “later identified by Canadian and international police as the Montreal headquarters of a terrorist cell connected to the Osama bin Laden network, and, more specifically, to an Algerian terrorist organization called the Armed Islamic Group, or GIA.”¹⁸⁶

Ressam missed a scheduled June 1995 hearing on his asylum claim, and a warrant was issued for his arrest. He was not deported, however, and at some point, used a falsified baptismal certificate to obtain a Canadian passport in the name of “Benni Antoine Noris”.¹⁸⁷

¹⁷⁸ “Claims by Country of Alleged Persecution—2022”. *Immigration and Refugee Board Canada* (modified Mar. 1, 2023). Source: <https://www.irb-cisr.gc.ca/en/statistics/protection/Pages/RPDStat2022.aspx>.

¹⁷⁹ “A Sober Assessment of the Growing U.S. Asylum Backlog”. *TRAC Immigration* (Dec. 22, 2022). Source: <https://trac.syr.edu/reports/705/>.

¹⁸⁰ SHEAR, Michael D. and AUSTEN, Ian. “U.S. and Canada Reach an Agreement on Turning Away Asylum Seekers” (Mar. 23, 2023). Source: https://www.nytimes.com/2023/03/23/us/politics/us-canada-asylum-seekers.html?campaign_id=190&emc=edit_ufrn_20230323&instance-id=88494&nl=from-the-times®i_id=80398174&segment_id=128590&te=1&user-id=605a5facb0fe857251b64502c28f590.

¹⁸¹ “Nationwide Encounters”. *U.S. Customs and Border Protection* (modified Mar. 10, 2023). Source: <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

¹⁸² “Millennium Plot/Ahmed Ressam”. *U.S. Federal Bureau of Investigation* (undated). Source: <https://www.fbi.gov/history/famous-cases/millennium-plot-ahmed-ressam>.

¹⁸³ *Id.*

¹⁸⁴ “Ahmed Ressam’s Millennium Plot”. *Frontline* (undated). Source: <https://www.pbs.org/wgbh/pages/frontline/shows/trail/inside/cron.html>.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

On March 17, 1998, Ressam left Canada and traveled to Peshawar, Pakistan, then onward that April to Afghanistan, where he received terrorist training at “camps funded and administered by Osama bin Laden”.¹⁸⁸

While in Afghanistan, Ressam claimed, he began his planning for an attack on the United States based out of Canada.¹⁸⁹

Ressam thereafter left Afghanistan and returned to Canada, flying from Pakistan through LAX, and landing in Vancouver, where he presented his fraudulent Canadian passport on February 7, 1999, and was admitted.¹⁹⁰

As the *Seattle Times* asserted in the summer of 2002: “The ease with which Ressam re-entered Canada after attending terror-training camp illustrates why U.S. counterterrorism officials sometimes deride their neighbor to the north as ‘the aircraft carrier’—meaning terrorists can land and take off from there with impunity.”¹⁹¹

Ressam went back to Montreal in April 1999, but returned to Vancouver on November 17, 1999, where he rented a car and checked into a local motel. In was in this motel room where he and an accomplice, Abdelmajid Dahoumane, (a friend from Montreal), assembled the bomb.¹⁹²

Dahoumane returned to Montreal, and on December 14, 1999, Ressam boarded the ferry MV Coho¹⁹³ in Victoria, B.C. on his way to Port Angeles, with the explosives in the spare tire compartment of the rental car.¹⁹⁴

After landing at Port Angeles, he presented the fraudulently-obtained Canadian passport in the name of Benni Noris to the U.S. Customs inspector. The inspector found him to be “fidgeting, jittery, sweating”, and she commenced a search, during which the explosives were found and Ressam arrested.¹⁹⁵

In April 2001, Ressam was convicted on nine counts in connection with the attempted bombing of LAX and was re-sentenced (for the third time) to 37 years in prison in October 2012.¹⁹⁶

Gazi Ibrahim Abu Mezer

Another would-be terrorist who entered the United States from Canada was Gazi Ibrahim Abu Mezer, born in 1973 in the Israeli West Bank town of Hebron.¹⁹⁷

In May 1993, Mezer applied for a Canadian T-1 student visa, and after receiving an Israeli passport (showing Jordanian nationality), was issued the visa. On September 14, 1993, Mezer entered Canada.¹⁹⁸

He almost immediately applied for a nonimmigrant visa from the U.S. consulate (which was denied), later filing for asylum in Canada in November 1993.¹⁹⁹

Mezer thereafter was apprehended twice by agents from the Border Patrol’s Blaine Sector attempting to enter the United States illegally in June 1996;²⁰⁰ on each occasion he was allowed to return to Canada voluntarily.²⁰¹

Following a third illegal entry and apprehension miles south of the border in Blaine Sector in January 1997, Mezer was taken into custody, largely because of his prior two apprehensions and because he was suspected by agents of being an alien smuggler.

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ BERNTON, Hal, CARTER, Mike, HEATH, David, and NEFF, James. “A Bunch of Guys”. *Seattle Times* (June 23–July 7, 2002). Source: <http://special.seattletimes.com/o/news/nation-world/terroristwithin/chapter9.html>.

¹⁹¹ *Id.* Note that the Canadian government has improved its national-security apparatus and information-sharing protocols in the interim, and in particular since the September 11 attacks. See fn. 167.

¹⁹² *Id.*

¹⁹³ Bell, Jeff. “Victoria focus of 1999 terrorist plot involving al-Qaeda-trained Ahmed Ressam”. *Times Colonist* (Jul 2, 2013). Source: <https://www.timescolonist.com/local-news/victoria-focus-of-1999-terrorist-plot-involving-al-qaeda-trained-ahmed-ressam-4596668>.

¹⁹⁴ BERNTON, Hal, CARTER, Mike, HEATH, David, and NEFF, James. “A Bunch of Guys”. *Seattle Times* (June 23–July 7, 2002). Source: <http://special.seattletimes.com/o/news/nation-world/terroristwithin/chapter12.html>.

¹⁹⁵ *Id.*

¹⁹⁶ Millennium Plot/Ahmed Ressam”. U.S. Federal Bureau of Investigation (undated). Source: <https://www.fbi.gov/history/famous-cases/millennium-plot-ahmed-ressam>.

¹⁹⁷ “Bombs in Brooklyn: How the Two Illegal Aliens Arrested for Plotting to Bomb the New York Subway Entered and Remained in the United States”. U.S. Dep’t of Justice, Office of the Inspector General (Mar. 1998). Source: <https://oig.justice.gov/sites/default/files/archive/special/9803/index.htm>.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

At the end of his first deportation proceeding, Mezer was ordered deported to Canada, but after Canada refused to take him back his case was reopened, and he was allowed to apply for asylum. Mezer was released on a \$5,000 bond in February 1997, and traveled to New York.²⁰²

In its report, “Terrorism in the United States 1997”,²⁰³ the FBI explained what happened thereafter:

“On July 31, 1997, a cooperating witness informed the New York City Police Department (NYPD) that a recent Palestinian immigrant to the United States was planning to rig a bomb to a trip wire on the ‘B-line’ of the subway. The NYPD conducted a raid on an apartment in Brooklyn, New York. Two improvised explosive devices consisting of five pipe bombs were recovered by the NYPD bomb squad.

“Upon entering the apartment, NYPD officers confronted two subjects: Gazi Ibrahim Abu Mezer and Lafi Khalil. Both men were shot by the officers as they tried to reach switches on the pipe bombs; they were subsequently taken to an area hospital.”

In 1999, Mezer was sentenced to life in prison for his role in the bombing plot.²⁰⁴

Abdulahi Hasan Sharif

Not all third-country aliens posing a national security threat are on the U.S. side of the Northern Border.

Abdulahi Hasan Sharif, a Somali national, was born in 1997 in Mogadishu.²⁰⁵ He left Somalia in approximately 2008, making his way through Kenya, Tanzania, Zambia, Namibia, and Angola, before eventually joining a group of migrants headed to Brazil.²⁰⁶

From there, he headed to Mexico, arriving on foot at the San Ysidro (Calif.) port of entry in July 2011.²⁰⁷ He had no entry documents, and was handed over thereafter to ICE, which detained him at the Otay Mesa Detention Center in San Diego.²⁰⁸

On September 22, 2011, Sharif was ordered removed to Somalia, and he waived his right to appeal.²⁰⁹ ICE was unable to remove him to Somalia, however, and so he was released on an order of supervision and directed to appear at ICE’s San Diego office in January 2012.²¹⁰

Sharif never showed up, having made his way to Buffalo, N.Y. and crossing into Canada at the Fort Erie, Ontario port of entry in early January 2012.²¹¹ He applied for, and was granted, asylum by the Canadian government thereafter.²¹²

After spending approximately 1 year in Ontario, Sharif moved to Edmonton, Alberta, where he worked as a laborer.²¹³

He first came to the attention of the RCMP there in 2015, when officers investigated him for “espousing extremist ideologies”, an investigation that was dropped for lack of evidence.²¹⁴

In September 2017, Sharif struck Constable Mike Chernyk—who had been directing traffic outside an Edmonton Eskimos football game—with a car, and then stabbed him several times in the head.²¹⁵

²⁰² Id.

²⁰³ “Terrorism in the United States 1997”, at p. 5. *U.S. Dep’t of Justice, Federal Bureau of Investigation* (1997). Source: <https://www.fbi.gov/file-repository/stats-services-publications-terror-97.pdf>.

²⁰⁴ TRAN, Mark. “Brooklyn judge jails Palestinian for life for plot to bomb subway”. *The Guardian* (Mar. 2, 1999). Source: <https://www.theguardian.com/world/1999/mar/03/marktran>.

²⁰⁵ WAKEFIELD, Jonny. “Everything we know about the man charged in Edmonton’s truck attack from the woman who knows him best”. *Edmonton Journal* (Sep. 28, 2018). Source: <https://edmontonjournal.com/news/crime/who-is-abdulahi-hasan-sharif-one-year-later-everything-we-know-about-the-alleged-edmonton-attacker>.

²⁰⁶ Id.

²⁰⁷ Id.

²⁰⁸ Id.

²⁰⁹ Id.

²¹⁰ Id.

²¹¹ Id.

²¹² Id.

²¹³ Id.

²¹⁴ Id.

²¹⁵ DERWORIZ, Colette. “Abdulahi Sharif sentenced to 28 years for trying to kill Edmonton police officer, pedestrians”. *Global News* (Dec. 13, 2019). Source: <https://globalnews.ca/news/6295290/sharif-sentenced-edmonton-vehicle-uhaul-police-officer-attack/>.

Sharif ran away, and a few hours later was driving a U-Haul van when he was pulled over at a police checkpoint. He sped off and thereafter ran down 4 pedestrians. After he was arrested, an ISIS flag was found in his car.²¹⁶

In December 2019, Sharif was sentenced to 28 years—18 years for stabbing Constable Chernyk, and 10 years for running down the pedestrians.²¹⁷

DETERRENCE

Whether you realize it or not, the reason that there is a burgeoning crisis at the Northern Border is simple: Joe Biden is the first President in history to reject the deterrence of illegal migrants as a border policy.

Nowhere was this clearer than in an exchange between DHS Secretary Alejandro Mayorkas and host Bret Baier on the May 1, 2022, edition of *Fox News Sunday*.²¹⁸ Baier asked Mayorkas: “Is it the objective of the Biden administration to reduce, sharply reduce, the total number of illegal immigrants coming across the Southern Border? Is that the objective?”²¹⁹

To which Mayorkas replied: “It is the objective of the Biden administration to make sure that we have safe, legal, and legal pathways to individuals to be able to access our legal system.”²²⁰

By “pathways . . . to access our legal system”, Mayorkas means to “apply for asylum”, and in fact the Biden administration has treated all illegal entrants as “asylum seekers”, regardless of the strength of their claims or even whether they come seeking asylum at all.²²¹

In line with the administration’s shift from reducing the total number illegal immigrants coming across the border to providing all migrants with “safe, legal, and legal pathways . . . to access our legal system”, the President has largely abandoned the primary tools Congress has given the Executive branch to deter illegal entrants—detention and prosecution.

Illegal entry is both a civil violation (subjecting the offender to removal) and a criminal offense, punishable as a misdemeanor carrying a sentence of up to 6 months and a fine for the first offense and a felony subject to up to 2 years’ imprisonment and a fine for subsequent offenses under section 275 of the INA.²²²

Criminal prosecutions under this provision peaked in 2018 and 2019 under the Trump administration and then plummeted with the onset of the COVID–19 pandemic, which limited available detention space.²²³ Even as illegal entries surged under the Biden administration and pandemic-related restrictions on detention have eased, however, the number of prosecutions for improper entry have remained low.²²⁴

The same is true of the number of illegal migrants who have been detained under the Biden administration.

Since President Biden took office, Border Patrol at the Southwest Border has set new yearly records for migrant apprehensions, first in fiscal year 2021, as agents apprehended nearly 1.6 million illegal migrants,²²⁵ and again in fiscal year 2022, as apprehensions exceeded 2.2 million.²²⁶

Despite that historically unprecedented surge in illegal migrants, however, President Biden asked Congress to cut the number of daily beds DHS has available for

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *FOX NEWS SUNDAY* (2022). “Sec. Mayorkas: ‘I’m looking forward to testifying before the US Senate.’” *Fox News* (May 1, 2022). Source: <https://www.foxnews.com/video/6305481541112>.

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ Arthur, Andrew (2022). “Biden’s Plan to Enable Everyone in the World to Apply for Asylum in the U.S.” *Center for Immigration Studies*, 11 May 2022. Source: <https://cis.org/Arthur/Bidens-Plan-Enable-Everyone-World-Apply-Asylum-US>.

²²² Section 275 of the Immigration and Nationality Act (2023). Source: <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title8-section1325&num=0&edition=prelim#:text=Any%20individual%20who%20knowingly%20establishes,%2C%20C2%A7275%-2C%2066%20Stat.>

²²³ “Major Swings in Immigration Criminal Prosecutions during Trump Administration.” *TRAC Immigration*, 18 Dec. 2020. Source: <https://trac.syr.edu/immigration/reports/633/>.

²²⁴ “Criminal Immigration Referrals Up from the Border Patrol.” *TRAC Immigration*, 7 Jul. 2022. Source: <https://trac.syr.edu/immigration/reports/688/>.

²²⁵ ARTHUR, Andrew (2021). “All-Time Record for Southwest Border Apprehensions in FY2021.” *Center for Immigration Studies*, 22 OCT. 2021. Source: <https://cis.org/Arthur/All-Time-Record-Southwest-Border-Apprehensions-FY-2021>.

²²⁶ ARTHUR, Andrew (2022). “Late Night CBP ‘News Dump’ Reveals the Border’s in Freefall.” *Center for Immigration Studies*, 24 OCT. 2022. Source: <https://cis.org/Arthur/Late-Night-CBP-News-Dump-Reveals-Borders-Freefall>.

immigration detainees, to 25,000 from 34,000, in his fiscal year 2023 budget request.²²⁷

Instead of detaining those illegal migrants—as, again, Congress has mandated—Biden has released an estimated 1.8 million of them into the United States since taking office.²²⁸

In his opinion in *Florida*,²²⁹ Judge Wetherell concluded that the Biden migrant release policies have encouraged even greater numbers of migrants to enter the United States illegally. More saliently, as he also found in his March 8 order,

“Collectively, [the Biden administration’s migrant release policies] were akin to posting a flashing ‘Come In, We’re Open’ sign on the Southern Border. The unprecedented ‘surge’ of aliens that started arriving at the Southwest Border almost immediately after President Biden took office and that has continued unabated over the past 2 years was a predictable consequence of these actions. Indeed, [U.S. Border Patrol] Chief [Raul L.] Ortiz credibly testified based on his experience that there have been increases in migration ‘when there are no consequences’ and migrant populations believe they will be released into the country. [Footnote omitted].”²³⁰

Consequently, Border Patrol agents at the Southwest Border are increasingly too overwhelmed apprehending, transporting, processing, caring for, and—all too often—releasing illegal migrants at the Southwest Border to perform their other duties, such as keeping terrorists and drugs out of the United States.

That has prompted Border Patrol to reassign hundreds of agents from the Northern Border to assist their colleagues at the Southwest Border, leaving the Northern Border increasingly understaffed and undefended.

Local and State police in the Northern Border States cannot be expected to pick up the slack. They, too, are understaffed, but more importantly, most lack the skills that Border Patrol agents rely upon daily.

That enforcement void at the Northern Border has been exploited by opportunistic criminals—drug and human smugglers. They care little about the lives and well-being of those aliens they are transporting, or the thousands of Americans and Canadians whose lives they adversely impact with their drugs, or firearms crimes in Canada. They are strictly in it for the money.

Moreover, a significant number of the illegal migrants released into the United States at the Southwest Border have been drawn by the more generous benefits available under the Canadian asylum system to enter that country illegally, which has created a crisis for the Federal and provincial governments on the other side of the Northern Border.

The Trudeau administration appears to have resolved that issue through agreement with the Biden administration—to its advantage and to the detriment of the migrants seeking to go to Canada as well as U.S. interests.

In amending the safe third country agreement to allow Canada to return illegal asylum-seeking illegal migrants, the Biden administration has essentially admitted that it created a hazard at the Northern Border for Canada, which it now expects the American people to clean up and deal with.

This crisis at the Southwestern and Northern Borders will continue until the Biden administration follows the example set by all prior administrations and begins deterring migrants from entering the United States illegally—which means detaining them, as, again, the law already requires.²³¹

²²⁷ SULLIVAN, Eileen (2022). “Biden to Ask Congress for 9,000 Fewer Immigration Detention Beds.” *New York Times*, 25 Mar. 2022. Source: <https://www.nytimes.com/2022/03/25/us/politics/biden-immigration-detention-beds.html>.

²²⁸ ARTHUR, Andrew (2023). “The ‘Unknown Unknowns’ of Biden’s Latest Border Plan.” *Center for Immigration Studies*, 27 Jan. 2023. Source: <https://cis.org/Arthur/Unknown-Unknowns-Bidens-Latest-Border-Plan>.

²²⁹ See fn. 41.

²³⁰ *Florida v. U.S.*, ___ F. Supp. 3d ___, No. 3:21-cv-1066-TKW-ZCB, slip op. at pp. 18–19 (N.D. Fla. Mar. 8, 2023). Source: [http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/\\$file/final+order.pdf](http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/$file/final+order.pdf).

²³¹ ARTHUR, Andrew. “DHS Can’t Just Release Illegal Migrants at the Border”. *Center for Immigration Studies* (Oct. 22, 2021). Source: <https://cis.org/Arthur/DHS-Cant-Just-Release-Illegal-Migrants-Border>. See also *Florida v. U.S.*, ___ F. Supp. 3d ___, No. 3:21-cv-1066-TKW-ZCB, slip op. at p. 75 (N.D. Fla. Mar. 8, 2023) (“Notwithstanding the plain text of [section 235(b) of the INA] and the Supreme Court’s holding in *Jennings v. Rodriguez*, 583 U.S. ___ (2018) https://www.supremecourt.gov/opinions/17pdf/15-1204_f29g.pdf], DHS argues that detention of applicants for admission is discretionary. In DHS’s view, [section 235(b) of the INA’s] mandatory language flows in only one direction—the statute prevents aliens from obtaining release, but it does not create obligations for DHS. In other words, DHS interprets the “shall” language in [section 235(b) of the INA] to limit the rights of aliens but not to limit its discretion. The Court rejects DHS’s argument and concludes that [section 235(b) of the INA’s] ‘shall be detained’

As Judge Wetherell held after considering all the evidence in Florida: “There is nothing inherently inhumane or cruel about detaining aliens pending completion of their immigration proceedings. The CBP and ICE witnesses admitted as much in their testimony and there is no contrary evidence in the record.”²³²

CONCLUSION

In its final report, the 9/11 Commission noted, ruefully:

“In the decade before September 11, 2001, border security—encompassing travel, entry, and immigration—was not seen as a national security matter. Public figures voiced concern about the ‘war on drugs,’ the right level and kind of immigration, problems along the Southwest Border, migration crises originating in the Caribbean and elsewhere, or the growing criminal traffic in humans. The immigration system as a whole was widely viewed as increasingly dysfunctional and badly in need of reform. In national security circles, however, only smuggling of weapons of mass destruction carried weight, not the entry of terrorists who might use such weapons or the presence of associated foreign-born terrorists.”²³³

That lesson has ostensibly been lost on this administration. In my more than three decades of involvement in immigration and border security—both before and after September 11—our borders have never been less secure.

Again, thank you for the invitation to appear today, and I look forward to your questions.

Chairman BISHOP. Thank you, Mr. Arthur, for connecting us all together there too. Members will be recognized in order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized. I now recognize myself for 5 minutes of questioning.

Mr. Judd, we know that the Biden border crisis has forced Border Patrol agents to detail and retask agents from the Northern Border to the Southern Border to deal with the massive influx of people there. You have stated recently that agents on the Northern Border were asked to deploy to Florida to deal with the surge of illegal migrants there as well. Your testimony also referenced a mere 450 agents on duty at any one time to cover this 5,500 miles of land and water border with Canada. Can you describe the impact of the administration’s robbing Peter to pay Paul approach to border security and then what that has done to the jobs and circumstances at the north?

Mr. JUDD. Certainly. When you currently look at the staffing levels right now, not only are we not deploying as many agents to the field as what we have in the past, we also have a staffing model that is just completely and totally antiquated. When you look at we have 1—I’m sorry—1 supervisor to every 2 agents, that’s just not something that we can actually deploy agents to the field to actually do the job. Then on top of that, when you pull more agents out of the field, what it does is it requires agents to patrol an area that is just not patrolable with just 1 single agent. Again, you cannot control an area if you are deploying an agent to patrol for every 30 miles, that agent is responsible for 30 miles. It’s impossible to do that. It’s impossible to detect. It’s impossible to quantify how many people are crossing when you do that.

means what it says and that is a mandatory requirement.”). Source: [http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/\\$file/final+order.pdf](http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/$file/final+order.pdf).

²³² *Florida v. U.S.*, ___ F. Supp. 3d ___, No. 3:21-cv-1066-TKW-ZCB, slip op. at p. 8 (N.D. Fla. Mar. 8, 2023). Source: [http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/\\$file/final+order.pdf](http://myfloridalegal.com/webfiles.nsf/WF/GPEY-CPQPAB/$file/final+order.pdf).

²³³ “The 9/11 Commission Report”, at pp. 383–84. *Nat’l Comm. on Terrorist Attacks Upon the United States* (Aug. 21, 2004). Source: <https://9-11commission.gov/report/>.

Chairman BISHOP. So, I fully agree that we need to not rob resources from a particular place in the border to go elsewhere. But then the Ranking Member's opening statement suggested that the issue is Republicans won't support enough resources. But it seems to me that is, in general, with respect to the open borders policy the Biden administration has pursued, the way they have converted everything into processing people into the country faster, if we apply more resources, in general, we are just going to process people into the country faster, and it is not going to secure the border or make it more orderly. What do you say about that?

Mr. JUDD. No, that's absolutely correct. When you look at what he's proposed, 300 new agents, that's a drop in the bucket, especially when we're losing agents at a 6.8 percent attrition rate right now. Again, it's just absolutely unsustainable. We cannot send agents from the Northern Border to the Southwest Border and expect to keep control of the Northern Border.

Chairman BISHOP. Thank you, Mr. Judd. Mr. Arthur, you made reference to what you referred to as visa-free travel for Mexican nationals. What was interesting to me to learn is, notwithstanding the flood that we have across the Southwest Border, about which we have done lots of hearings and heard lots of information, that the largest group of folks who are encountered at the Northern Border now are Mexican nationals. You talked about all the different countries. You said visa-free travel. Explain that a bit. How does that work? Why are people from Mexico entering through the Northern Border from Canada?

Mr. ARTHUR. Yes, so, we actually have visa-free travel into the United States from a number of countries all around the world. As most of you know, if you travel on a U.S. passport, you generally don't need to get a visa to go to most countries. Back in 2016, Mexico and the Trudeau government reached an agreement that would allow Mexicans to enter Canada without first obtaining a visa to go to that country. Looking at these numbers, looking at the trends, it would appear that a number of those individuals are exploiting—a number of Mexican nationals are exploiting that loophole. I think 89.7 percent of all Mexican nationals were expelled under Title 42 at the Southwest Border. At the Northern Border, it was about 8.25 percent. So, the odds are a lot better getting into the United States if you come over that way, even if you get caught.

Chairman BISHOP. So, presumably they get on a plane in Mexico, fly to maybe Montreal, and then come across the border. Is that right?

Mr. ARTHUR. Yes. In fact, in my written testimony, I note the fact that there are three nonstop flights to Montreal every day, YUL, from Mexico City—

Chairman BISHOP. You know, recently, in that case decided in the Florida United States District Court, Judge Wetherill said that Biden administration migrant release policies were, "akin to posting a flashing come in, we are open sign on the Southern Border." Is the same effect being had on the Northern Border?

Mr. ARTHUR. Well, it's interesting because at the Northern Border, we don't know what the release numbers are up there. CBP only quantifies them. But given how broad the border is, given how

few agents that we have, the opportunities to enter illegally and not be caught are much higher. I'd love to know what the got-away numbers are at the Northern Border. They're not published.

Chairman BISHOP. One of the interesting figures in the staff's memo was this fact that so far in fiscal year 2023, the Office of Field Operations operates ports of entry, has encountered 176 individuals in the Terrorist Screening Dataset at the Northern Border. How about that? That seems to me to be I mean, that is even more than encountered on the Southern Border. I understand that sort of a repeating circumstance, but that seems you don't need that many terrorists to enter the country to cause spectacular harm.

Mr. ARTHUR. No, and in fact, in my written testimony, I talk about one such foreign national who entered the United States, Ahmed Ressam, his plan was to blow up Los Angeles International Airport in the millennium. He was apprehended December 14, 1999. But yes, it is interesting because a great deal of attention has been paid to people on the Terrorist Watch List being apprehended at the Southwest Border. When you look at those Northern Border port numbers, they're sky-high. That is definitely a source of concern.

Again, Canada and the United States, good partners. Canada does a very good job, certainly today, defending itself and defending the United States from terrorist incursion. We can't make it any easier for terrorists to get into this country.

Chairman BISHOP. Thank you, Mr. Arthur. I now recognize the Ranking Member, Mr. Ivey, for 5 minutes of questions.

Mr. IVEY. Thank you, Mr. Chairman. Mr. Judd, let me start with you. I believe on page 3 of your testimony, you talk about the need for recruitment and retention of agents and the challenge of lacking pay parity. Would it make sense for additional funds to be made available to you and your agents so that you can recruit and retain more agents so they can do the work at the border?

Mr. JUDD. It's vitally important.

Mr. IVEY. All right. Then with respect to the funding, you mentioned in the paragraph just above that, that there was an increase of 2,700. I guess this is a proposal that will require two challenges. One, is to have and recruit more agents. But that entails having additional funding to recruit them, right?

Mr. JUDD. It does, yes.

Mr. IVEY. Yes, in fact, right now, there is a national competition for agents, police officers, and the like. There are shortages everywhere across the country. So, there is competition based in part on increasing salaries and then sometimes offering bonuses for people to sign up so we can attract them. Isn't that correct?

Mr. JUDD. Yes, sir.

Mr. IVEY. All right, so having additional funding for recruiting and retaining officers would be important?

Mr. JUDD. It would. In fact, I submitted that to DHS, and I heard nothing back from DHS. What we saw wasn't anything what we were hoping for in any budget request from this administration.

Mr. IVEY. All right, you mean the new budget?

Mr. JUDD. Yes.

Mr. IVEY. OK. So, additional funding on top of that would be important and useful.

Mr. JUDD. Absolutely.

Mr. IVEY. All right. So, you would ask Congress to provide additional funding, potentially to help address that need?

Mr. JUDD. Absolutely.

Mr. IVEY. All right. Then let me ask Mr. Stauber, actually, I guess I can ask both of you. I'm sorry, Mr. Judd and Mr. Quinn, you both testified about the length of the border. I guess, Mr. Judd, you talked about it more. Mr. Quinn, you mentioned that you have a shorter border with Canada from New Hampshire. But with respect to you, Mr. Judd, you mentioned that what is it, 5,500-plus miles of border?

Mr. JUDD. Yes, sir.

Mr. IVEY. All right. Then while you were working on the border, I think you said you had to cover, was it 275 miles of border by yourself?

Mr. JUDD. No, sir. The most that I ever covered at one time was 60 miles.

Mr. IVEY. Sixty miles, OK.

Mr. JUDD. Yes, sir.

Mr. IVEY. Is that bigger than it should be, from your perspective?

Mr. JUDD. To properly patrol the border on the Northern Border, with as little technology as we have, you would need 1 agent for every 3 to 5 miles. One agent to every 30 to 60 miles just isn't going to do it.

Mr. IVEY. All right. So, increasing the number of agents would be helpful.

Mr. JUDD. Absolutely.

Mr. IVEY. Even if we don't get to 1 per 3 miles.

Mr. JUDD. Absolutely.

Mr. IVEY. More agents would be helpful?

Mr. JUDD. Yes, sir.

Mr. IVEY. And more funding so that we can hire more agents—

Mr. JUDD. Yes, sir.

Mr. IVEY [continuing]. Would be necessary—

Mr. JUDD. Absolutely.

Mr. IVEY [continuing]. For that to happen. Then Commissioner Quinn, let me ask you about Operation Stone Garden. This is a FEMA-funded or -managed program?

Mr. QUINN. Yes, sir. It started in 2011, Operation Stone Garden.

Mr. IVEY. OK. You mentioned in your testimony that I guess there was a request, I don't know if it was just by you, but an effort to get additional funding for Operation Stone Garden.

Mr. QUINN. Yes. Those funds go to a collaborative local, State, county officers that work together along the border to support CBP.

Mr. IVEY. OK. The additional funding would be useful so that maybe you could hire more officers and do more to cover the border as well.

Mr. QUINN. Well, actually, the funding would be for more patrols and specifically 3 all-terrain vehicles. That's what we had requested and was denied.

Mr. IVEY. All right, all right. So, more funding would be helpful.

Mr. QUINN. Yes, sir.

Mr. IVEY. All right. With respect to Representative Tenney's comments, at the end of her testimony, she invited me to join in co-

sponsoring her bill, which is H.R. 9023. The reason I pointed it out as problematic, and apparently she agrees, is it only references the Southern Border. But the additional problem I have with the bill and the reason I wouldn't cosponsor it at this point is it contains no funding source. So, it calls for increasing salaries and expenses for new agents and officers, but it doesn't talk about how to pay for that other than a monopoly money approach of trying to get it from the Inflation Reduction Act, which I think we all know isn't going to happen.

So, I would join with your calls and the previous panel's calls to get additional funding. Stop playing games with the issue about who struck John or who caused it first. That is fine. We can do that for purposes of this hearing. But if we are going to be serious about it, and Mr. Judd and Mr. Quinn, I think your testimony reflects that, as does some of the other information we presented, a lot more funding is going to be necessary. I am calling on my Republican colleagues to come up with proposals to do that. So, with that, I yield back, Your Honor—Your Honor—Mr. Chairman.

Chairman BISHOP. I can tell where you have been, sir.

Mr. IVEY. Flashback.

Chairman BISHOP. I have the same predilection. I thank the Ranking Member, and I now recognize the gentlewoman from Georgia, Ms. Greene, for her 5 minutes of questions.

Ms. GREENE. Thank you very much. I think funding is extremely important for our programs, especially when it comes to securing the border. I would like to address the funding issue. The Ranking Minority Member on the committee that failed to discuss this with Representative Claudia Tenney, who is not even here on the panel, to talk about her bill and defend her bill that he was saying he refused to cosponsor.

You know, unfortunately, many of the bills that were funded during the last Congress funded trillions of dollars into programs that made no sense. I will just give you an example. An infrastructure bill that less than 10 percent actually went toward infrastructure. But I digress. Let's get back to the Northern Border.

I am from Georgia, so I don't know much about it because I live in a southern State. But I am impressed with the fact that it has 5,525 miles and nearly half of that is over water. I was also extremely concerned to find out that before, in the past 10 years, there were approximately 2,000 Border Patrol agents to cover that gigantic expanse of land. I also am very concerned to find out that DHS moved more than 20 percent of Northern Border officers to have to go process the gigantic influx of illegal aliens at the Southern Border, leaving Northern Border States to have to handle these problems on their own. A major problem. That comes from lack of funding from the Biden administration in the last 2 years when they had full control in the House and the Senate.

I would also like to point out that it is extremely concerning and dangerous to the United States of America's national security that Canada's immigration policy allows Mexicans to travel to Canada without a visa. It seems that Canada wants to participate in Mexico's invasion of the United States because many of these Mexicans are obtaining an electronic travel authorization to fly into Canada, and they get that approved within minutes, and then they end up

coming into the United States. One State in particular, Mr. Quinn, you come from, you are from New Hampshire. I am amazed that you have a population in your State of approximately 1.4 million people, but yet thinking about nearly 5 million illegal aliens that have attempted to come to the United States, that has to be pretty intimidating.

Mr. Quinn, it was reported that in 2022, a family of 4 Indian nationals, including 2 children, died of exposure to the extreme cold in Canada near your border with the United States on their way to enter the United States illegally. In December of last year, a Haitian man was found dead in the woods trying to enter the United States illegally from Canada. In just February of this year, a Mexican man entering the United States illegally from Canada died during the trek. In your experience, Mr. Quinn, being from a Northern Border State, what type of environments do those who attempt to cross the Northern Border illegally usually face during the winter months?

Mr. QUINN. Yes, ma'am. Thank you for the question. Those elements could be harsh and unforgiving. Just to be clear, I don't work at the Northern Border, but I spend time with those that do, and there is limited and often no cell coverage in some areas. If you don't know where you're going, you can succumb to the weather very quickly. So, it is quite dangerous.

Ms. GREENE. So, it is very dangerous to people's basic needs and survival. Mr. Quinn, the 287(g) Program gives local law enforcement officers the authority to enforce immigration laws. It has been vilified by advocates, including the ACLU. The Biden administration has not approved an application for the 287(g) Program since 2021. As you note in your testimony, this includes the New Hampshire State Police's request to participate, which was recently rejected. As commissioner of the New Hampshire Department of Safety, can you please describe the value local law enforcement, such as the New Hampshire State Police, can bring to this border crisis if they were only authorized to detain and apprehend those that are illegally crossing the border and dying on the way?

Mr. QUINN. Yes, it's critical. Our Governor has requested and asked twice for the delegation agreement. Just to be clear, our troopers can be working alone up there on that border. What we want, we cannot enforce Federal law, so we are just looking for this delegation so that we can act and take measures if they do come across those that are crossing in these remote areas. We have a great partnership with Border Patrol, but oftentimes they may be alone. Some of these Stone Garden details may just be State and local officers. You know, we would like to have a partnership at each one. But in the event that the troopers come across these crossings, they want to be able to enforce the law.

Ms. GREENE. Thank you so much, Mr. Quinn. Hopefully, the Biden administration will come to their senses. I yield back the remainder of my time.

Chairman BISHOP. The gentlewoman yields back. The Chair now recognizes the gentleman from Michigan, Mr. Thanedar, for his 5 minutes of questions.

Mr. THANEDAR. Thank you, Chairman, and good morning. Just a response to the gentlewoman from Georgia and her comments

about the infrastructure bill. I want to point out that the infrastructure bill funds 20 modernization projects at ports of entry. So, I just want to say that for record, the truth.

I would also like to show recent video footage of the Peace Bridge connecting the United States and Canada. As you can see, this is hardly the picture of disorder. My home State of Michigan is also a shining example of how efficient cross-border cooperation with Canada can benefit both our countries. Michigan exports approximately 21.7 billion in goods to Canada annually, including automobiles, pharmaceutical products, and natural gas. Every day, thousands of people travel across the bridges that connect our countries.

I am pleased to note that CBP has invested in new infrastructure to facilitate this trade and travel with the Gordie Howe International Bridge Project. Once this bridge is open next year, port of entry on both sides will allow for improved border processing. We couldn't have asked for a better partner than Canada, which contributed funding for a new inspection plaza. Dr. Dawson, my question is, can you speak to how investments in infrastructure like the Gordie Howe International Bridge help accelerate our critical trade relationship with Canada?

Ms. DAWSON. Thank you, Mr. Thanedar. I just wanted to correct that even though I was born in Canada, I too am a gentlewoman of Georgia as I reside in Atlanta, which is also a major hub for direct flights back and forth to Canada and trade with Canada as well. So, I agree heartily investment in infrastructure is a great tool to propel economic development and prosperity in the United States. When you have, in the current condition, \$1 million a minute going across the Ambassador Bridge between Detroit and Windsor, which is an old piece of infrastructure that needs to be updated, that presents a lot of challenges because if you can't get folks across the border rapidly, then you end up with trucks idling at the border. Terrible for admissions, terrible for business competitiveness if you can't get the willing buyer to the willing seller.

Also, if you've got border congestion, you end up with cars, and school buses, and soccer teams in the same lineups as those trucks that are trying to get through. If you invest in infrastructure, you can spread folks out into the correct lanes and you can screen better for who might be a problem actor and who just needs to get to their soccer game or get to the GM plant.

Mr. THANEDAR. Now, for my home State of Michigan, the trade relationship with Canada is of vital importance. How can we support CBP's efforts to facilitate this trade while ensuring we maintain robust border security?

Ms. DAWSON. Thank you. The CBP does a great job. The remarks about robbing Peter to pay Paul, I agree entirely with that. Our CBP men and women are trying to do a lot and they need more, not just in terms of staffing and extra hours, but in terms of technology and the ability to deploy these technologies in infrastructure that allows that. We are not talking about replacing officers with technology, but rather giving them decision support tools so that they can do their crossings easier, better, and also with an increased security profile.

Mr. THANEDAR. Thank you, Dr. Dawson, and thank you, the witnesses, for your testimony. Chairman, I yield back.

Chairman BISHOP. The gentleman yields back. The Chair now recognizes the Vice Chairman of the subcommittee, the gentleman of Mississippi, Mr. Ezell, for 5 minutes.

Mr. EZELL. Thank you, Mr. Chairman. I appreciate the opportunity to discuss how the Biden administration's disastrous border policies have worsened the crisis at all of our borders, not just the Southern Border. The Northern Border is the longest border in the world, providing plenty of opportunities for dangerous cartels to traffic illegal drugs and smuggle humans.

Mr. Judd, as President of the National Border Patrol Council, you represent 16,000 brave Border Patrol agents who dedicate their lives to serving this Nation. As a former law enforcement officer, I understand the difficulties our men and women in uniform have to face. Can you describe some of the challenges the Border Patrol agents are facing at the Northern Border?

Mr. JUDD. Yes, the main issue that we're dealing with right now is we just don't have the infrastructure, technology, nor the personnel that's necessary. Now, I'm not going to say that we need to burden the taxpayer by giving us a lot more of the same type of technology that what we need on the Southwest Border. But I absolutely will say that we need to start with looking at what are the personnel that we have to have on the Northern Border, and then we can expand out from there. But until we do that, we're just not going to maintain the control that we must have between the ports of entry.

Mr. EZELL. How have some of these challenges curtailed some of your ability to recruit and retain agents?

Mr. JUDD. When you look at what's going on on the Southwest Border, it all starts there. When you look at the United States Border Patrol, nobody figured that what happened in Florida was going to take place. Nobody anticipated that what is currently happening in Swanton, in Burke, was going to take place. Let me take that back. It's not that we didn't anticipate it, it was we just didn't prepare for it. That was what is necessary. We have to look at and we have to project out and say, this is what our failings could be if we rob Peter to pay Paul.

If we have our agents in doing processing of the Southwest Border, then we're not going to have control on the Northern Border. But it all starts there. It has to start on the Southwest Border. If we can get control of the Southwest Border, then we can control the Northern Border. We can control our coastal borders as well. But it all starts on the Southwest Border.

Mr. EZELL. It is very dangerous crossing that Northern Border. The terrain is tough, temperatures below freezing. Why are some of these migrants choosing to go up there now?

Mr. JUDD. Because of the ease of crossing. When you look at if you can come into Canada without a visa and then just work your way down, again, those individuals from the country of India, within 13 days, they were on our Northern Border and intended to cross into the United States, and unfortunately, they hit a blizzard. That's horrendous.

When you talk to any Border Patrol agent, when they have to deal with the death that we currently see, I personally witnessed somebody take their last breath, and that will be with me for the rest of my life. When you see that and when you see that there are simple solutions, but we just don't have the political will to implement those simple solutions, it's very frustrating. It's very upsetting to every single Border Patrol agent that there is.

Mr. EZELL. Thank you for that. I plan on working with the committee to address the problems that you have described. With that, Mr. Chair, I yield back.

Chairman BISHOP. The gentlemen yields back. The Chair now recognizes the gentlewoman from Illinois, Mrs. Ramirez, for 5 minutes of questioning.

Mrs. RAMIREZ. Thank you, Chairman. Well, for those of you that don't know, I am an American, and I am also a proud daughter of a woman who crossed the Southwest Border 40 years ago. I have to tell you that I have been sitting here, a little scorecard of a number of things that I have heard that almost directly say that my mother and asylum seekers are less than human. I have heard a member, a Republican member, talk about immigrants as an infestation and another one call it an invasion.

Mr. Arthur, you and your organization have frequently proposed and defended extreme anti-immigrant policies, such as the Trump administration's so-called zero tolerance policy, which resulted in thousands of children being taken from their parents at the border, hundreds of whom still have not been reunited. In fact, you called this cruel and inhumane policy, and I quote, "absolutely crucial." You also referred to provisions in law meant to protect migrant children as, and I quote, "loopholes" and "flaws" and argued for their elimination. Maybe this kind of awful rhetoric is to be expected from a witness representing an organization founded by an anti-immigrant racist White nationalist like John Tanton, but it should have no place before this committee.

Then we have Mr. Judd, who has used media appearances to repeat the great replacement theory, tropes regularly pushed by hate groups. This kind of dangerous rhetoric has inspired a rising number of domestic terror incidents across the country in recent years. All of this for a hearing about a nonexistent crisis along a shared border with our friend, our ally, and partner, Canada.

So, I want to direct my question to you, Dr. Dawson. Since you have spent your career working on U.S.-Canada matters, I am interested in your take on how the revised Safe Third Country Agreement will affect migration along our Northern Border. As part of the agreement, Canada has agreed to take 15,000 migrants from the Western Hemisphere this year. Briefly, can you tell me a little bit about the United States and Canada and how this important issue is being carried on?

Ms. DAWSON. Thank you. The United States and Canada are very closely aligned on hemispheric migration issues, and I think our leaders look at the humanitarian elements very strongly. The recently revised Safe Third Country Agreement is a way to impose greater rule of law. It was really a loophole that meant that folks would be turned away if they came to the border post, but if they walked across the border and got arrested in Canada, they would

have the opportunity to sort-of park in Canada for up to 24 months while they waited for their asylum claim to be adjudicated. It wasn't a guaranteed you get to live in Canada forever, but it was a way to spend time in Canada. For folks who are fleeing desperate circumstances, it's totally understandable.

But it was not a situation that Canadians or Americans, but Canadians found tolerable, for the most part, because of the equity issue. We know that there are hundreds of thousands of people who are displaced in the world. Many asylum seekers are doing all the right things, following all the right rules, and are languishing in refugee camps around the world.

Mrs. RAMIREZ. Thank you, Dr. Dawson. I want to follow up on that, particularly from a place of equity. What role, if any, does the Future Borders Coalition see itself taking on addressing and eradicating some of the racial implicit bias that we see in facial recognition technology, given that the technology is a key recommendation of the organization's 2022 Path Toward Border Digitation Report. But we know that there is racial bias in face technology, and we have seen that, particularly with Haitian and African asylum seekers.

Ms. DAWSON. Thank you for that question. Our organization has been engaged with U.S. CBP and with Canada CBSA on the very issue of demographic bias in facial recognition technology. We have spoken to them and are learning how the technology is being improved, how it is being tested, and that the opportunities for demographic bias are shrinking. They are not nothing, but they are shrinking. So, we recommend facial recognition technologies only as we have the assurance that they are secure and we have public trust in their use.

Mrs. RAMIREZ. Thank you. I yield back.

Chairman BISHOP. The gentlewoman yields back. The Chair now recognizes the gentleman from Alabama, Mr. Strong, for 5 minutes.

Mr. STRONG. Thank you, Mr. Chairman. I would like to yield 1 minute to Mr. Arthur to respond to some of the attacks that were directed his way, if that would be appropriate.

Mr. ARTHUR. Thank you, Mr. Strong. I do appreciate that. No. 1, I disagree with almost everything that the honorable woman said. The Center for Immigration Studies was founded by Otis Graham who was a professor at the University of California, San Diego. On our board of directors, we have the first Hispanic U.S. Attorney from San Diego. We have the former executive director for the Congressional Black Caucus who was also the former graduate Dean of Morgan State University in the home State of Mr. Ivey and I. We also have the president of the Urban League of Miami.

With respect to families and family units and the separation policy, it was poorly handled. But in an April 2019 report, a bipartisan panel of the Homeland Security Advisory Committee found that those children are being used as pawns and that they are all traumatized on the trip to the United States. With respect to unaccompanied alien children, I believe the *Washington Post* editorial board may have used the word loophole to refer to the TVPRA as well. I can't remember if they did, but they certainly alluded to it.

But in June 2014 in Guatemala, President Biden talked about how those kids are being placed in the hands of criminals to be

smuggled to the United States who physically and sexually assault them. If you took all of the children who have been released into the United States under the Biden administration, put them all in one school district, it would be the sixth largest in the United States. If you had a school district in which there were a significant number of physical and sexual assaults going on every day, that would be the only thing, God, I pray that this committee and every committee on Capitol Hill would be looking at every day. Thank you.

Mr. STRONG. Thank you, Mr. Arthur. Mr. Judd, I would like to say thank you for the time that you have spent with us. I am in my first 11 weeks as a United States Congressman. It has been very informative. The thing that we saw at the Southern Border, I have been there twice since I have been a United States Congressman. They are not just coming from Mexico. They are coming from Honduras, Guatemala, Cuba, El Salvador, Haiti, Iran. They are coming from China, too. Mr. Arthur, we often hear every migrant that comes to our border referred to as an asylee. However, does DHS admit that of all the people subject to expedited removal who claimed fear between 2014 and 2019, only 15 percent of their asylum claims were ever actually granted?

Mr. ARTHUR. Yes, it is actually 14.7 percent. Actually, I think it was 17 percent of all the people. But that was 14.7 percent or 14 percent of 83 percent. It's a little confusing. But yes, a significant number of individuals pass credible fear are allowed to apply for asylum. Yet during that 12-year period, we saw that nearly it was almost twice as likely that a migrant would be ordered removed in absentia when they failed to appear at their hearings than that they were actually granted asylum.

Mr. STRONG. Thank you. You are an immigration judge and have studied and translated the data. Is it your opinion that the migrants pouring over the border, particularly the Northern Border, are all asylees?

Mr. ARTHUR. You know, it's actually interesting, Mr. Strong, because in my written testimony, I talk about Canadian officials, Canadian NGO officials, who are talking about our system was never built to handle this many asylees. At the end of 2022, there were 70,000 and change asylees in Canada, a period of time in which there were 1.566 million in the United States.

I was an immigration judge. I granted people asylum. It is absolutely important that we keep the asylum system, we be able to grant people asylum.

Mr. STRONG. Thank you.

Mr. ARTHUR. This is breaking the asylum system, Mr. Strong.

Mr. STRONG. Thank you. It has been reported that President Biden and Prime Minister Trudeau have reached an agreement to apply the Canada-U.S. Safe Third Country Agreement to illegal aliens that have crossed in between the borders. Will this modification act as a deterrent or is it more smoke and mirrors from the Biden administration?

Mr. ARTHUR. It is a strong protected measure for the Canadian government because the Canadian government was inundated, 40,000 people came through the Roxham Road unofficial port of entry in 2022 into Canada. So, this really just benefits Canada. It

doesn't benefit the United States. Canada has three oceans surrounding it and their only border is with the United States. The only illegal migration that they get primarily, almost exclusively, is across that border into Canada.

Mr. STRONG. Thank you. Ms. Dawson, in January 2023, there were numerous reports of at least one Canadian province that voted to decriminalize the possession of hard drugs, cocaine, heroin, fentanyl, along with others. Ms. Dawson, what does your data show will occur in the next 10 years when many in Canada believe the solution is to legalize cocaine, heroin, fentanyl? What do you think this is going to do?

Ms. DAWSON. Thank you for the question. That's not something that I have the data to answer. As I mentioned in my presentation, Canada has different rules with respect to many things as a sovereign state, use of drugs among them. But I can tell you that the United States and Canada do cooperate extensively on cross-border movement of criminals, eradication. There's a Cross-Border Crime Forum that's looking at these issues every single day. I recommend that you look to the Cross-Border Crime Forum to make sure that this issue is high on their priority list.

Mr. STRONG. Thank you, Ms. Dawson. Mr. Chairman, yield back.

Chairman BISHOP. The gentlemen yields back. I now recognize the final Member of the subcommittee to ask questions before we reach the guests. That is Mr. Crane of Arizona for 5 minutes of questions.

Mr. CRANE. Thank you, Mr. Chairman. Thank you all for hearing here today before our committee. It is true that you guys are under oath. Is that correct?

Mr. JUDD. Yes, sir.

Mr. CRANE. All right. Ms. Dawson, my first question for you. What is better, ham or Canadian bacon? We are on the clock, Ms. Dawson.

Ms. DAWSON. I have no answer. I have no answer.

Mr. CRANE. OK, all right.

Ms. DAWSON. I have no answer. I can say that Montreal bagels are better, though.

Mr. CRANE. OK, all right. Moving on to Mr. Judd. Mr. Judd, it is good to see you. I don't know which one of us brought the warm weather from Arizona, but it is nice up here. Mr. Judd, how many years have you been an agent?

Mr. JUDD. Twenty-five, but I'd first like to start. I'm amazed that a Member of Congress can actually impugn somebody's character without letting that individual answer the question. She said that I repeated white nationalist tropes when in reality, all I did was repeated what John D. Podesta said. John D. Podesta's think tank said demographics. I believe that this is a direct quote, "demographics is destiny."

I had never heard of the great replacement theory until *USA Today* wrote a story on it. It is amazing that a Congresswoman can impugn somebody's character without even allowing them to answer. I've been a Border Patrol agent for 25 years.

Mr. CRANE. Well, I'm glad you got to address that. If you'd like to say anything else on my time, go for it. What else you got?

Mr. JUDD. Sorry about that.

Mr. CRANE. Now, how long have you been representing Border Patrol agents in the National Border Patrol Council?

Mr. JUDD. I've been in a position, one or the other, for about 15 years, approximately.

Mr. CRANE. Thank you, sir. Would you say you are proud of your job?

Mr. JUDD. I am.

Mr. CRANE. If so, why?

Mr. JUDD. Very, very proud of my job. I think that it's very important for the safety and security of the American people.

Mr. CRANE. I think you told me a couple of years ago, sir, the first time I ever met you that your organization has endorsed candidates from both parties. Is that correct?

Mr. JUDD. We have. So, would you say that your organization is bipartisan? It absolutely is.

Mr. CRANE. That is weird, because that doesn't happen a lot up in this town. Can you elaborate on why your organization is bipartisan?

Mr. JUDD. We'll work with anybody that wants to secure the border. That's what we want. We work for the safety and security of the American people. Any law enforcement, when they put on a uniform, what they want to do is they want to protect citizens. That's what we want to do, and we'll work with anybody that will work with us.

Mr. CRANE. Thank you, sir. Would you agree with Secretary Mayorkas' assessment that we have operational control at the Southern Border?

Mr. JUDD. Absolutely not.

Mr. CRANE. Can you briefly describe some of the most detrimental policy changes that current administration has put into place?

Mr. JUDD. When you look at the main magnet that draws people to cross our borders illegally is whether or not they're going to be released into the United States. Right now, nearly everybody that crosses the border illegally, if they're not expelled under Title 42, which is only about 30 percent right now, then they're released into the United States. That's the main magnet that drives people. He has put that, if you will, he's put that on steroids.

Mr. CRANE. Yes. Does it bother you on a personal level to see these changes made?

Mr. JUDD. It does, because I know that we can't properly protect the American people with these policies.

Mr. CRANE. Yes, one of the things that was covered earlier, sir, was the attrition rate in the Border Patrol. In your professional and long-standing position in the Border Patrol, do you think that has anything to do with Border Patrol agents feeling like it doesn't even matter what they do?

Mr. JUDD. It does. I speak with agents on a regular basis that are leaving the agency because they know that they can't do the job that they wanted to do.

Mr. CRANE. That's got to be kind-of heartbreaking to somebody who has, you know, devoted so much of your time——

Mr. JUDD. It is.

Mr. CRANE [continuing]. And life, sacrificed time away from your family to protecting American citizens.

Mr. JUDD. It is.

Mr. CRANE. Yes. Sir, do you know when President Biden's first visit to the border was? Was it January '23?

Mr. JUDD. It was, yes, yes.

Mr. CRANE. So, how many years into his presidency was that, sir?

Mr. JUDD. Just over 2 years.

Mr. CRANE. Do you know how many trips President Trump made to the border, Mr. Judd?

Mr. JUDD. I don't know exactly, but I know that he made multiple trips.

Mr. CRANE. Yes, we were looking it up this morning. I think it was about five. Do you think it has, as a leader yourself, do you think it has anything to do with leadership if you actually show up to the places that you represent and the people that follow you, see you show up?

Mr. JUDD. Yes, anytime that you know that somebody supports what you're doing, what your mission is, you're going to be a lot more energized to do the job.

Mr. CRANE. Awesome. Mr. Arthur, my last question is for you. My colleague over here from Michigan, Mr. Thanedar, showed a video of some vehicles going over a bridge in Michigan and then stated that this is hardly a picture of disorder. I asked a couple of other Members if they got the same implication that I did that, hey, because of the video I am showing where cars are going over a border and trucks are going over a border, there is no issue here. When you saw that, what did you think about that example that he made in the video that he showed? Do you think that that described the border issues that we have going on here in the United States, sir?

Mr. ARTHUR. Well, actually, the interesting thing is that the conclusion that I drew from that talks about why this hearing today was so important. We listened to Dr. Dawson, the Ranking Member, talked about the importance of trade between the United States and Canada. We need to continue that relationship. Our relationship with Canada is absolutely crucial to our vitality, our economic vitality. I know that the time is up. I'll make it short. We need to make sure that that continues. I was in, not this building, but two buildings down on September 11. Everything changed that way. Certainly changed. I was oversight counsel for immigration. The dangers that we would have to shut down our economy, shut down our borders, shut down our commerce because something had happened, were real.

Mr. CRANE. Mr. Arthur, sir, I was asking about a specific video.

Mr. ARTHUR. I understand that. But I mean—

Mr. CRANE. Real quick, real quick, I am going to go to Mr. Judd. Mr. Judd, when you watched that video—

Mr. IVEY. Point of order.

Chairman BISHOP. The gentleman's time has expired.

Mr. CRANE. OK, all right.

Chairman BISHOP. I thank the gentleman. We are blessed to have several strong guest Members here. So, at this time, I yield to Mr. Correa, recognize Mr. Correa for 5 minutes of questions.

Mr. CORREA. Thank you, Chairman Bishop. I want to thank you for holding this hearing on the Northern Border. We do have to look at all points of entry to this country and see how things, the state of how things are.

In preparation for this hearing, I called the Canadian ambassador to the United States, Kristen Hillman, to ask her about what she thought about this hearing. She reminded me of some very important facts. No. 1, Canada is our biggest trading partner. No. 2, Canada is our strongest security partner in the world. The only nation that we have a joint military command with. It is called NORAD. Mr. Arthur, we talked about 9/11, Canada protected us when 9/11 happened—

Mr. ARTHUR. Absolutely.

Mr. CORREA [continuing]. The aftermath.

Mr. ARTHUR. They absolutely were, sir. The RCAF took place, took part—

Mr. CORREA. Thank you. Thank you.

Mr. ARTHUR. Sir—

Mr. CORREA. It is not a question, just a statement, boss. Canada also fought with us in every major war in this last century. World War I, World War II, Vietnam, Korea, Iraq, Afghanistan.

Just recently, the administration announced a new agreement with Canada to address the issue of refugees. Because refugees is not a U.S. issue, not a Canadian issue, not a Mexican issue. It is a regional issue. The solution is going to demand all of us working together. Dr. Dawson, would you use the word disorder to characterize what is going on at the Canadian border?

Ms. DAWSON. No, sir, I would not. Thank you for bringing so many of the great relationship facts to the table today.

Mr. CORREA. You know, Democrats passed an infrastructure bill. It included 26 major modernization of land ports of entry, 20 of these in the Northern Border. I have been going to the Southern Border all my life. I was in San Ysidro recently, spoke to Mr. Judd. A lot of you Members who told me the investments we have made in that infrastructure in San Ysidro transformed that port of entry, probably the biggest in the world. Order, processing, efficiency: 2023 fiscal year funding bill, 125 additional CBP officers, 300 additional Border Patrol agents.

You are absolutely right. It is not enough, but it is better than zero. The big issue is not the funding as you know, it is finding qualified agents because of the rigorous standards that are there in place. I am working, hopefully with a lot of folks here, to address those requirements so we can get folks hired.

Dr. Dawson, do you believe infrastructure, personnel, technology, which Democrats passed bills for over the last 2 years, will streamline commerce and help process folks at border entries?

Ms. DAWSON. Yes, absolutely. I just want to underscore that these are not distinct, that security and prosperity are interlinked. If you get—

Mr. CORREA. If you have got—

Ms. DAWSON [continuing]. You're right, if you got—

Mr. CORREA [continuing]. Your biggest partner to the north and your second-largest trading partner to the south, you got to have both of them going together.

I want to show you a picture of Roxham Road. This was sent to me by U.S. Patrol Chief Raul Ortiz. This is the largest irregular crossing point of U.S.-Canada border with a vast majority of traffic, human drugs, and weapons crossing into Canada from the United States. That is right. Crossing into Canada from the United States. I am going to show you irregular crossing. Does this look like chaos?

Finally, in my last 45 seconds here, let me say that the Ambassador also pointed out another issue to me. The Ambassador said to me, Lou, irregular crossing, there was a spike because the United States was requiring COVID vaccine and COVID tests to enter the United States. People in Canada didn't have those things, so they resorted to irregular crossings.

Finally, my question you, Dr. Dawson, is recent agreement between the United States and Canada passed last few days ago, does this benefit Canada or is this a win-win agreement?

Ms. DAWSON. This is a win-win. Thank you for the question. This is a win-win and it's one part of a multipronged, I don't even know if the solution, but efforts to mitigate a humanitarian crisis. Safe Third Country Agreement helps to provide a greater amount of law and order to asylum-seeking processing. Canada also agreed to accept a larger number of Western Hemisphere asylum seekers. There's also the Los Angeles Declaration which was signed at the Summit of the Americas—

Mr. CORREA. Chair, if I may—

Ms. DAWSON [continuing]. In 2022.

Mr. CORREA [continuing]. Three seconds. I guess Dr. Dawson is looking for—

Chairman BISHOP. Mr. Correa, I did enforce from Mr. Crane earlier at the instance of the Ranking Member. I hate to cut you off, but I certainly appreciate the—

Mr. CORREA. Thank you, Mr. Chairman.

Chairman BISHOP [continuing]. Appreciate you being here, my friend.

Mr. CORREA. Your time.

Chairman BISHOP. With that I am honored to recognize the Chairman of the Republican Conference and Member from New York, Stefanik for 5 minutes of questions.

Ms. STEFANIK. Thank you, Mr. Chairman. Dr. Dawson, have you been to the Swanton Sector of the Northern Border?

Ms. DAWSON. Yes, quite often.

Ms. STEFANIK. Where have you been?

Ms. DAWSON. I was a resident of Ottawa, so, Ontario. So, I was up and down the up-state New York, New England area very frequently, especially along the lakes.

Ms. STEFANIK. Have you spoken with Border Patrol officers in up-state New York or the north country?

Ms. DAWSON. I have not spoken to Border Patrol officers recently from that area, no.

Ms. STEFANIK. Well, I will tell you, I speak to Border Patrol officers all the time in my district. I represent 700,000 hardworking

Americans that live in my district. It is an abject disaster what is happening at our Southern Border and the impact it is having on our Northern Border. Dr. Dawson, are you aware that encounters at the Northern Border have surged up to 846 percent in the Swanton Sector that you are so familiar with?

Ms. DAWSON. I think during my testimony earlier, I indicated that——

Ms. STEFANIK. Are you aware of 846 percent?

Ms. DAWSON. That is not a number that I——

Ms. STEFANIK. So, you disagree with that number put out by the U.S. Government?

Ms. DAWSON. I don't have the information to agree or disagree.

Ms. STEFANIK. OK. Well, that is the number. Mr. Judd, because you are familiar with Northern Border Patrol officers, because I know you speak to them regularly as I do in my district, I want to get your input. Do we have operational control over the Northern Border?

Mr. JUDD. No, we don't. In fact, what happens is we conflate the issue. We conflate the ports of entry. Between the ports of entry, we have to subtract out the two. In fact, that's the reason why we have two different agencies that work. You have the port of entry, which is the Office of Field Operations and then you have between the ports of entry, which is the Border Patrol. We have to take those two issues apart from each other and look at them individually.

Ms. STEFANIK. Mr. Judd, walk me through. I am very familiar hearing from my constituents about the crisis on the Southern Border, how that has impacted the morale of Border Patrol officers up north who have been transferred over and over again to the Southern Border with no-notice deployments. No. 1, the morale impact, and No. 2, the fact that we do not have the personnel we need operationally along the Northern Border, specifically the Swanton Sector.

Mr. JUDD. A little over 25 years, I've never seen the morale lower in the Border Patrol than what it is today. Make no mistake, we will continue to put on the uniform. We will continue to go out and do the job that we're supposed to do. We just won't be happy about the job that we're doing because we know that we do not have the support of this administration to actually protect the American people.

Then when you look at how we have taken away from the Northern Border to support the Southwest Border, it all starts on the Southwest Border. If we control the Southwest Border, then we won't have to touch the Northern Border agents. But because we don't have the policy that's necessary to secure the Southwest Border, then the Northern Border gets robbed, and then it opens up the gaps that we're currently seeing.

Ms. STEFANIK. We know when we had a secure border in this country, it was not that long ago. What tools or policies were taken away by the Biden administration that led to this crisis on both the southern and Northern Border?

Mr. JUDD. It was actually the reimplementation of a tool, which was what we call catch-and-release. When you look at under President Trump, we got rid of catch-and-release. When you get rid of

catch-and-release, when you get rid of the promise that you're going to reward people for violating our laws, they're going to stop coming. We saw that under President Trump. Once that was re-implemented, that's why we saw the huge increase. If individuals know that they can violate our laws and be rewarded for violating our laws, of course it's going to happen.

Ms. STEFANIK. My additional question is, you are all familiar, the Biden administration and Secretary Mayorkas have repeatedly claimed they have operational control of the Southern Border, something that the chief of the Border Patrol recently disputed in a hearing. Mr. Quinn, do you believe that we have operational control over the Southern and Northern Border?

Mr. QUINN. I can only speak to my border and I don't believe we do. We have 58 miles of border in New Hampshire. I was at the Swanton Sector on Friday. I know that they are working very hard to the west, so I'm concerned with our 58 miles. What are the resources that are there 24/7 in the event that somebody called and it was an issue of an illegal crossing, whether it's through 9-1-1 or however.

Ms. STEFANIK. Dr. Dawson, since you seem to be an expert on the Swanton Sector, even though you are unfamiliar with the 840 percent increase that we have had in terms of encounters, do you believe that both the Southern and Northern Border are—we have operational control?

Mr. ARTHUR. Yes, I was there when this committee drafted the Secure Fence Act of 2006. Under the definition set forth in Section 2 of that act, we don't have anything even approximating operational control. Again, as I said during my opening statement, I've never seen the border this bad in history.

Ms. STEFANIK. Well, that is the sentiment shared with Border Patrol officers, border families in my district, and I am proud to be one of the strongest advocates for U.S.-Canadian partnership, U.S.-Canadian trade. I co-chair the Northern Border Caucus, which is bipartisan. I was one of the leading advocates for making sure we implemented USMCA. We want to continue to strengthen that partnership, not at the risk of having a strong security partnership and a partnership when it comes to securing our border. I am very confident it is not a partisan issue in my district. This administration has absolutely failed and it is because of their failures that have caused this crisis on both the Southern and Northern Border. With that, I yield back.

Chairman BISHOP. The gentlewoman yields back. I now recognize the gentlewoman from New York, Ms. Clarke, for 5 minutes of questions.

Ms. CLARKE. Thank you, Mr. Chairman. I thank our Ranking Member. I thank our panelists of witnesses here today. My first question is for Dr. Dawson. Dr. Dawson, the U.S.-Canada border separates two friendly and collaborative nations, very similar to what my colleague Mr. Correa shared with you. We have a long history of social, cultural, and economic ties. As a matter of fact, I have two aunts living in Toronto.

This relationship was on full display last week with President Biden, when President Biden met with Canadian Prime Minister Justin Trudeau to announce a historic new agreement on managing

migration between our two nations. The agreement ensures that our countries can return migrants who come between ports of entry and includes a promise from Canadians to accept 15,000 migrants from the Western Hemisphere this year. Dr. Dawson, how will this new agreement address irregular migration and better secure the Northern Border?

Ms. DAWSON. So, the new agreement—thank you for the question. The new agreement will help to ensure that asylum seekers and people who see opportunities to settle in the United States and Canada don't take advantage of a system that is intended to help the very, you know, people who are most in need. There is an established asylum-seeking process that exists in the world. The United States has recently taken measures to expedite asylum seeking, and we applaud that. So, the changes to the Safe Third Country Agreement really help to impose a greater level of lawfulness rule of law on that border.

But really what we are talking about is how we can secure our perimeter. We are friends. We are neighbors. The folks who mean us harm are coming from the outside. Many of them are coming from the outside. So, we need to collaborate together to ensure strong perimeter security, not bigger border walls or bigger barriers between us.

Ms. CLARKE. I thank you. We have heard a lot today about an increase in migrant activity along the Northern Border. I would like to point out something obvious that I don't think my Republican colleagues seem intent to sort-of gloss over. From March 2020 to October 2022, the Canadian border was effectively closed due to the COVID-19 pandemic. While there were still some crossings, comparing the numbers that we are seeing today well into post-pandemic reopening to the numbers we were seeing just last year or the year before, at best, is at best disingenuous and misleading.

In fact, when we drill down into the number of apprehensions that Border Patrol has made between ports of entry, we find that they actually hit a high watermark in fiscal year 2019 under President Trump, with 4,408 apprehensions compared to 2,856 encounters Border Patrol has had in fiscal year 2023. This is hardly an out-of-control crisis, but, you know.

Dr. Dawson, can you describe how CBP has worked with Canadian officials to facilitate the reopening of the U.S.-Canada border following the lifting of the COVID pandemic restrictions?

Ms. DAWSON. Sure, thank you for the question. CBP and CBSA officers work together every single day and are in constant communication on operational issues, challenges, et cetera. They have reopened our nexus enrollment centers, which is part of the Global Access Trusted Trader program. They're working together on things like the Ship Rider program, on bilateral issues related to child sexual exploitation, and screening out the traffickers who move between our two countries. There are more problems than there are solutions, but CBSA and CBP are dedicated to finding answers to joint challenges.

Ms. CLARKE. Thank you so much, Dr. Dawson. Mr. Chairman, I thank you for the time. Let me just say that I think, you know, it is time that we get beyond performance art and get to comprehensive immigration reform, that, you know, we need to look at this

in a holistic manner. The steady drumbeat of, you know, what I would consider to be issues that don't get us to that point does not solve the problem. So, with that, Mr. Chairman, I yield back and I thank you once again.

Chairman BISHOP. I thank the gentlewoman for appearing. I will say that I wish she had been with us in McCallum to hear the chief of the Border Patrol say that we don't have operational control of the Southern Border, that the border is not secure and that it is the Biden administration's policies that was—I mean, we all have an opportunity to learn from things. With that, I recognize my friend from Texas, the gentlelady, Ms. Jackson Lee, for 5 minutes of questions.

Ms. JACKSON LEE. I thank the Chairman and the Ranking Member. I join with my colleague and friend from New York, Ms. Clarke, on the number of iterations that we have had since my tenure on this committee, which is more than 2 decades to be able to really get to the serious work of immigration reform and working together to secure our borders. For every trip that I may have missed, to my friend from North Carolina, I think I have literally lived at the border at every crisis that there have been. I am from Texas and I know the border very well.

Mr. Judd, let me thank you for 25 years and I think we have been on this Homeland Security journey almost the same amount of time. You started a little bit before 9/11. Of course, you know, we created the Homeland Security Department, and of course and—excuse my voice—and also the Homeland Security Committee. I am very proud to have had under our jurisdiction the Border Patrol, of which I have known almost all of the leaders in your council as well. Just a question, Mr. Judd, would a decrease in funding for the Border Patrol and border needs be of help in any way, decreasing the funding?

Mr. JUDD. No, it would not.

Ms. JACKSON LEE. Thank you. I am committed to making sure that as we proceed in appropriations, I am on the authorizing this committee that we work very hard to ensure funding for the needs of our border patrols, our CBP, some of the physical infrastructure. I was at the Brownsville just a couple of weeks ago, crossed over the border, as I often do, and I see the continuing need. So, let me put that on the record, first of all.

Let me put on the record as well, that our Republican friends who are here in this committee are part of the effort to fund the discretionary funding, which is Border Patrol, Homeland Security at 2019 funding that would be a sizable seismic cut to the needs of our Nation. Let me count myself as a strong fighter and opponent to that, along with the Biden administration.

But let me also try to clarify very quickly before I raise questions with one of the witnesses. This is a straw man on this 100 percent operational control. Even the former Homeland Security Chairman, Mr. McCaul, on May 15, 2013 during the markup of H.R. 1417, the Border Security Results Act of 2013, shows I have been on this committee for a very long time. We have defined operational control in this bill based on the oversight work of the committee. It is a reflection of testimony from the chief of the Border Patrol, a 90 percent standard for success. Over all administrations, we have

never gone beyond 70–75 percent. It doesn't mean we don't need to continue to achieve because I am reminded that it was the Border Patrol and FBI that saved us in 9/11—not 9/11 the—I'm sorry—the turn of the century when the terrorist was caught at the border, it was the Northern Border. It was through the law enforcement work of all of you, Border Patrol, FBI that we were saved in terms of the Northern Border. So, let's be more accurate in our assessment.

Let me go to Dr. Dawson. How does irregular migration into the United States over the Northern Border compare to irregular migration into Canada? Isn't it true that most weapons and people move north, not south? How is the cooperation on this combating this journey of the irregular migration? Did you hear me? My voice is a little rough.

Ms. DAWSON. Yes—sorry. Really, the percentage in Canada is minuscule compared to the Southern Border. But as I said in my testimony, this is not nothing and this is something that we do have to continue to deal with. It is both an enforcement problem, but it is also a root causes issue and we need to work together to provide options for asylum seekers, options for folks that are in crisis, and regularize migration throughout the hemisphere.

Ms. JACKSON LEE. Let me also ask because I would just get it in before the Chairman gavels me, we have had a lot, heard a lot about the people and drugs coming into the United States over the Northern Border. We understand, however, that only 1 pound of fentanyl has been found on the Northern Border this year. Is that true?

Ms. DAWSON. That's my understanding as well, 1 pound this year, yes.

Ms. JACKSON LEE. OK. So, let's get the correct narrative. We should be working together, but we shouldn't put up straw men or false information about what is transpiring. We know we don't want fentanyl here from any border. But what I hope you are saying is that we can get this done by working together, including the agreement that the President just signed with the president of Canada.

Ms. DAWSON. That's exactly what I'm saying, ma'am.

Ms. JACKSON LEE. Thank you very much. I yield back.

Chairman BISHOP. The gentlewoman yields back. I thank the witnesses for your valuable testimony and your answers. I thank the Members for their attendance and questions. Members of the subcommittee might have additional questions for you in writing. If they do, we would ask you to respond to those in writing. Pursuant to Committee Rule VII(D), the hearing record will be open for 10 days for that purpose.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 12:17 p.m., the subcommittee was adjourned.]

